



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY
साप्ताहिक
WEEKLY

सं. 21] नई दिल्ली, मई 17—मई 23, 2015, शनिवार/वैशाख 27—ज्येष्ठ 2, 1937
No. 21] NEW DELHI, MAY 17—MAY 23, 2015, SATURDAY/VAISAKHA 27—JYAISTHA 2, 1937

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 12 मई, 2015

का.आ. 1034.—केन्द्र सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 की अधिनियम सं० 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए बिलासपुर स्थित छत्तीसगढ़ उच्च न्यायालय में दिल्ली विशेष पुलिस स्थापना (सीबीआई) द्वारा जांच किए गए मामलों तथा उनसे उत्पन्न प्रासंगिक अन्य मामलों में अभियोजन का संचालन, अपील एवं पुनरीक्षण हेतु श्री किशोर भादुड़ी, अधिवक्ता को दिल्ली विशेष पुलिस स्थापना (केन्द्रीय अन्वेषण ब्यूरो) के विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[फा०सं० 225/16/2012-ए०वी०डी०-II]

अजित कुमार, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 12th May, 2015

S.O. 1034.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal
2078 GI/2015

Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri Kishore Bhaduri, Advocate as Special Public Prosecutor of the Delhi Special Police Establishment (Central Bureau of Investigation) in the Chhattisgarh High Court at Bilaspur for conducting the prosecution appeals, revisions or other matters arising out of the cases investigated by the Delhi Special Police Establishment (CBI).

[F.No. 225/16/2012-AVD-II]

AJIT KUMAR, Under Secy.

स्वास्थ्य एवं परिवार कल्याण मंत्रालय

(स्वास्थ्य एवं परिवार कल्याण विभाग)

नई दिल्ली, 7 मई, 2015

का.आ. 1035.—जबकि भारतीय चिकित्सा परिषद संशोधन अध्यादेश, 2013 की धारा 3क की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिनांक 06 नवंबर, 2013 को भारतीय चिकित्सा परिषद का पुनर्गठन किया गया:

और जबकि केन्द्र सरकार ने भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) की धारा 3 की उपधारा (1) के खंड (ख) के अनुसरण में और संबंधित विश्वविद्यालयों/स्वास्थ्य विज्ञान विश्वविद्यालयों द्वारा यथा सूचित, निम्नलिखित व्यक्ति को इस अधिसूचना के जारी होने

की तिथि से चार वर्षों के लिए भारतीय आयुर्विज्ञान परिषद के सदस्य के रूप में निर्वाचित किया गया है।

अतः अब उक्त अधिनियम की धारा 3 की उपधारा (1) के उपबंध के अनुसरण में केन्द्र सरकार द्वारा भारत सरकार के तत्कालीन स्वास्थ्य मंत्रालय की दिनांक 9 जनवरी, 1960 की अधिसूचना संख्या का०आ० 138 में निम्नलिखित संशोधन किए जाते हैं; अर्थात्:—

भारत सरकार, स्वास्थ्य एवं परिवार कल्याण मंत्रालय की दिनांक 06 नवंबर, 2013 की अधिसूचना संख्या का०आ० 3325 (अ) और उसके संशोधन में अंतिम प्रविष्टि तथा तत्संबंधी प्रविष्टि में निम्नलिखित को जोड़ा जाएगा, अर्थात्:

क्र.सं.	विश्वविद्यालय का नाम	निर्वाचित सदस्य का विवरण	चुनाव का तरीका
44.	बाबा फरीद यूनिवर्सिटी ऑफ़ मेडिकल साइंसेज़, फरीदकोट पंजाब	प्रो० (डॉ०) राज बहादुर, बाईस चांसलर, बाबा फरीद यूनिवर्सिटी ऑफ़ मेडिकल साइंसेज़, फरीदकोट, पंजाब	सेनेट द्वारा निर्वाचित

[सं० वी० 11013/02/2015-एम ई पी-I]

अमित बिश्वास, अवर सचिव

पाद टिप्पणी: दिनांक 9 जनवरी, 1960 के सा०का० 138 के तहत भारत के राजपत्र में मुख्य अधिसूचना प्रकाशित की गई थी और भारतीय आयुर्विज्ञान परिषद (संशोधन), द्वितीय अध्यादेश, 2013 (2013 का 11) के तहत अंतिम बार संशोधित किया गया था।

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 7th May, 2015

S.O. 1035.—Whereas on 06th November, 2013, the Medical Council of India was reconstituted in exercise of the powers conferred by sub-section (1) of section 3A of the Indian Medical Council (Amendment) Ordinance, 2013;

And Whereas the Central Government, in pursuance of clause (b) of sub-section (1) of section 3 of the Indian Medical Council Act, 1956 (102 of 1956) and as informed by the respective universities/health science universities, the following has been elected to be a member of the Medical Council of India for four years with effect from the date of issue of this notification.

Now, therefore, in pursuance of the provision of sub-section (1) of Section 3 of the said Act, the Central Government hereby makes the following amendment in the Notification of the Government of India in the then Ministry of Health number S.O. 138 dated the 9th January, 1960, namely:

In the notification of the Government of India in the Ministry of Health & Family Welfare number S.O. 3325(E) dated the 6th November, 2013 and amendments thereto,

after the last entry and entry relating thereto, the following shall be inserted, namely:

S.No.	Name of the University	Details of the Elected Member	Mode of Election
44.	Baba Farid University of Health Sciences, Faridkot, Punjab	Prof. Dr. Raj Bahadur, Vice Chancellor, Baba Farid University of Health Sciences, Faridkot, Punjab	Elected unanimously by Senate.

[No. V. 11013/02/2015-MEP-I]
AMIT BISWAS, Under Secy.

Foot Note: The principal notification was published in the Gazette of India *vide* number S.O. 138 dated the 9th January, 1960 and was last amended *vide* Indian Medical Council (Amendment) Second Ordinance, 2013 (11 of 2013).

शहरी विकास मंत्रालय

नई दिल्ली, 15 मई, 2015

का.आ. 1036.—केन्द्रीय सरकार एतद्वारा शहरी विकास मंत्रालय के प्रशासनिक नियंत्रणाधीन केन्द्रीय लोक निर्माण विभाग के निम्नलिखित कार्यालय, जिसके 80% से अधिक अधिकारियों और कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10 के उपनियम (4) के अंतर्गत अधिसूचित करती है:

मुख्य अभियंता (पू०अ०)-2 का कार्यालय,
केंद्रीय लोक निर्माण विभाग,
जी०पी०ओ० परिसदन, राजीव नगर थाना के निकट
आशियाना दीघा रोड,
पटना-800 025

[फा० सं० ई-11017/1/2013-हिन्दी]
दुर्गा शंकर मिश्रा, अपर सचिव (शहरी विकास)

MINISTRY OF URBAN DEVELOPMENT

New Delhi, the 15th May, 2015

S.O. 1036.—In pursuance of Sub-rule (4) of rule 10 of Official Language (Use for official purpose of the Union) Rules, 1976, the Central Government hereby notified the following office of the Central Public Works Department, Ministry of Urban Development, where more than 80% of officers/employees have attained working knowledge of Hindi:

Office of the Chief Engineer (EZ)-II
Central Public Works Department,
GPO Complex, Near Rajiv Nagar Police Station,
Ashiyana Digha Road,
Patna-800 025

[F. No. E-11017/1/2013-Hindi]

DURGA SHANKER MISHRA, Addl. Secy. (UD)

कारपोरेट कार्य मंत्रालय

नई दिल्ली, 14 मई, 2015

का.आ. 1037.—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) 1976 के नियम 10 के उप-नियम (4) के अनुसरण में कारपोरेट कार्य मंत्रालय के अंतर्गत प्रतिस्पर्धा अपील अधिकरण को, जिसके 80. से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है।

[सं ई-11016/1/2010-हिंदी]

सुरेश पाल, संयुक्त सचिव

MINISTRY OF CORPORATE AFFAIRS

New Delhi, the 14th May, 2015

S.O. 1037.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies Competition Appellate Tribunal, under Ministry of Corporate Affairs, wherein more than 80% staff members have acquired working knowledge of Hindi.

[No. E-11016/1/2010-Hindi]

SURESH PAL, Jt. Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 12 मई, 2015

का.आ. 1038.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91-क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा मैसर्स हिन्दुस्तान इन्सेकटीसाइड्स लिमिटेड (सभी प्रतिष्ठानों/इकाईयों) के कारखानों/स्थापनाओं के नियमित कर्मचारियों को इस अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट, 30 मई, 2015 से एक वर्ष की अवधि के लिए लागू रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात्:—

- (1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जायेंगे;
- (2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;
- (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात् उक्त अवधि कहा गया है) प्रवर्तमान था

ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थी;

- (5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी;

- (i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ; अथवा

- (ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथा अपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या

- (iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या

- (iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा:—

- (क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है; अथवा

- (ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या

- (ग) प्रधान या आसन्न नियोजक की, उसके अभिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, वह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या

- (घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;

- (ङ.) यथानिर्धारित अन्य शक्तियों का प्रयोग करना।

6. विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[सं० एस्-38014/12/2013/-एसएस-I]

अजय मलिक, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 12th May, 2015

S.O. 1038.—In exercise of the power conferred by Section 88 read with Section 91-A of the Employees' State Insurance Act, 1948(34 of 1948) the Central Government hereby exempts the regular employees of factories/establishments of M/s Hindustan Insecticides Ltd. (All units) from the operation of the said Act. The exemption shall be effective *w.e.f.* 30.05.2015 for a period of one year.

2. The above exemption is subject to the following conditions namely:—

- (1) The aforesaid establishments wherein the employees are employed shall maintain a register showing the name and designations of the exempted employees';
- (2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;
- (3) The contributions for the exempted period, if already paid, shall not be refundable;
- (4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the period under the Employees' State Insurance (General) Regulations, 1950;
- (5) Any Social Security Officer appointed by the Corporation under Sub-Section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of:—
 - (i) Verifying the particulars contained in any returned submitted under sub-section (1) of section 44 for the said period; or
 - (ii) Ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or

(iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or

(iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to:

- (a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or
- (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or
- (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee; or
- (d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises;
- (e) exercise such other powers as may be prescribed.

(6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption.

[No. S-38014/12/2013-SS-I]

AJAY MALIK, Under Secy.

नई दिल्ली, 13 मई, 2015

का.आ. 1039.—केन्द्रीय सरकार कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इंडियन फार्मर्स फर्टिलाइजर कॉर्पोरेटिव लिमिटेड (ईफको) (सभी यूनिट/कार्यालय) के नियमित

कर्मचारियों को इस अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट, 27 जून, 2015 से एक वर्ष की अवधि के लिए लागू रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात्:—

- (1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जायेंगे;
- (2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;
- (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात् उक्त अवधि कहा गया है) प्रवर्तमान था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;
- (5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई सामाजिक सुरक्षा अधिकारी या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी;
 - (i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ; अथवा
 - (ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गए थे या नहीं; या
 - (iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या
 - (iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध में प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा:—
 - (क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है; अथवा

- (ख) ऐसे प्रधान या आसन्न नियोजक के, अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां, और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या
- (ग) प्रधान या आसन्न नियोजक की, उसके अभिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या
- (घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;
- (ङ) यथानिर्धारित अन्य शक्तियों का प्रयोग करना।

6. विनिवेश/निगमीकरण के मामले में प्रदत्त छूट स्वतः रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[सं. एस-38014/05/2014-एसएस-I]

अजय मलिक, अवर सचिव

New Delhi, the 13th May, 2015

S.O. 1039.—In exercise of the power conferred by Section 88 read with Section 91-A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees of factories/establishments of M/s. Indian Farmers Fertiliser Co-operative Ltd. (IFFCO), (All Units/offices) from the operation of the said Act.

The exemption shall be effective w.e.f. 27.06.2015 for a period of one year.

(2) the above exemption is subject to the following conditions namely:—

- (1) The aforesaid establishments wherein the employees are employed shall maintain a register showing the name and designation of the exempted employees;
- (2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;
- (3) The contributions for the exempted period, if already paid, shall not be refundable;

(4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from in it respect of the said period under the Employees' State Insurance (General) Regulations, 1950;

(5) Any Social Security Officer appointed by the Corporation under Sub-section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of:—

(i) Verifying the particulars contained in any returned submitted under sub-Section (1) of Section 44 for the said period; or

(ii) Ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or

(iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or

(iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to:

(a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or

(b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or

(c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector

or other official has reasonable cause to believe to have been an employee; or

(d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment office, or other premises;

(e) exercise such other powers as may be prescribed.

(6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption.

[No. S-38014/05/2014-SS-I]

AJAY MALIK, Under Secy.

नई दिल्ली, 14 मई, 2015

का.आ. 1040.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, 2 चंडीगढ़ के पंचाट (संदर्भ संख्या 385/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/05/2015 को प्राप्त हुआ था।

[सं० एल-40012/31/2005-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 14th May, 2015

S.O. 1040.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award (I.D. NO. 385/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Chandigarh now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited and their workman, which was received by the Central Government on 14/5/2015.

[No. L-40012/31/2005-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: SRI KEWAL KRISHAN, Presiding Officer

Case No. I.D. No. 385/2005

Registered on 19.8.2005

Sh. Sarabjit Singh. S/o Sh. Gurdip Singh, resident of Village Chahal, P.O. Tehna, Distt. Faridkot.

...Petitioner

Versus

1. General Manager, Bharat Sanchar Nigam Ltd., Ferozepur.

2. Union of India, through Secretary, Ministry of Communications, Deptt. of Telecom Services, Sanchar Bhawan, New Delhi.

...Respondents

Appearances :

For the workman Sh. Arun Batra, Adv.

For the Management Sh. G.C. Babbar, Adv.

AWARD

Passed on 13.4.2015

Central Government *vide* Notification No. L-40012/31/2005 IR(DU) Dated 22.7.2005, by exercising its powers under Section 10 Sub-section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management of Telecommunication known as Bharat Sanchar Nigam Ltd., Ferozepur in the terminating the services of Sh. Sarabjit Singh, S/o Sh. Gurdip Singh, Ex-Driver, *w.e.f.* 1.6.1999 by violating the provisions of ID Act is legal and justified? If not, to what relief the concerned workman is entitled to and from which date?"

In response to the notice, the workman appeared and submitted statement of claim pleading that he was employed as Driver from 2.3.1998 to 31.5.1999 in the Office of SDO(T) Faridkot on Vehicle No. PB-04D- 7558 and was paid Rs. 1560/- per month. He was issued identity card and paid wages on ACG-17. His attendance was marked in the attendance register. His services were terminated on 31.5.1999 without service of notice or payment of any retrenchment compensation. After termination of his services, new hands were employed. His termination being illegal, he be reinstated in service.

The respondent department did not file written statement but filed a reply which it earlier filed in an application under Section 33(c) (2) of the Act. It is pleaded that the workman was not directly engaged by the management nor was paid any wages. Department entered into a contract with the contractor for managing the petty jobs on need basis and the department used to make the payment to the contractor. That the workman may have been engaged by the contractor.

Parties were given opportunity to lead their evidence.

In support of its case the workman appeared in the witness box and filed his affidavit reiterating the case as set out in the claim petition.

On the other hand the management has examined Shri Shamsher Bahadur, who filed his affidavit reiterating the stand taken in its reply filed under Section 33(c)(2) of the Act.

It may be added that the respondent management moved an application seeking permission to replace the written statement and its application was declined *vide* detailed order dated 20.5.2014.

I have heard Sh. Arun Batra, counsel for the workman and Sh. G.C. Babbar for the management.

It was argued by Mr. G.C. Babbar, counsel for the management that there was no relationship of employer and employee between the parties and the management has given a contract to the contractor for managing the petty jobs and the workman was never its employee and therefore he is not entitled to any relief.

It may be added that the case of the workman is that he was employed by the management as driver for the period 2.3.1998 to 31.5.1999 and this fact is denied by the respondent management. In order to prove his case, the workman has relied on photocopy of the identity card WW2/1 which is issued by the DET Faridkot mentioning therein the date of issuance on 1.4.1999 and expiry on 31.3.2000. It is in the knowledge of the management who was posted as DET in the days when this identity card was issued but no one has been examined by the department to believe the issuance of the identity card. It is clearly mentioned therein that the workman was working as a lorry driver. The workman has again placed on record a photocopy of the logbook from 2.3.1998 to 7.5.1999 and the vehicle number mentioned therein PB04D7558 and it bear initial of officers of the respondent management. But again the respondent management did not dare to examine any of the persons who were posted at the relevant time to establish that the workman was working with the department as an employee of the department, or the contractor. Again the definite case of the respondent management is that it has given a contract to the contractor to provide labour for petty jobs and the payment was directly made to the contractor but again the management has failed to examine the contractor to establish that the workman was the man of the contractor and not of the department. In view of the identity card Exh bit WW2/1 and the copy of the logbook WW2/2, it was incumbent upon the respondent management to lead cogent evidence to prove that the workman was not its employee but was of the contractor and the bare statement of Sh. Shamsher Bahadur who was not posted at the relevant station at the relevant time is of no help to the department. Rather the documents placed on the file coupled with the statement of workman probablize his case that he was employed by the respondent department where he worked from 2.3.1998 to 31.5.1999 and his services were terminated on 31.5.1999 without payment of any retrenchment compensation.

The respondent department is a statutory body and has its rules and regulations for employing the persons but nothing has come on the file that the workman was employed by following any procedure by the department. Therefore, in the circumstances, reinstatement of the workman cannot be ordered. However he is to be given compensation for termination of his services which were terminated without payment of any retrenchment compensation. He worked for more than a year with the department and according to him, as deposed during cross-examination, his salary was Rs. 1200/- per month. The workman has to be given compensation in lieu of one month's notice and 15 days' salary for each completed year. The services of the workman were terminated in the year 1999. Considering the entirety of the circumstances and by doing the guess work, the workman is awarded Rs. 50000/- as just compensation.

In result, the reference is answered holding the action of the management in terminating the services of the workman is not legal and justified and he is awarded Rs. 50000/- as compensation and the respondents shall pay the same to him within two months of the publication of the award filing which workman shall be entitled to 9 per cent interest from the date of the award till realization on the awarded amount. Let hard and soft copy of the award be sent to the Central Government for information and further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 14 मई, 2015

का.आ. 1041.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं/श्रम न्यायालय-2 चंडीगढ़ के पंचाट (संदर्भ संख्या 384/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/05/2015 को प्राप्त हुआ था।

[सं एल-40012/32/2005-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 14th May, 2015

S.O. 1041.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 384/2005) of the Central Govt. Industrial Tribunal-cum-Labour Court. No. 2, Chandigarh now as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited and their workmen, which has received by the Central Government on 14/05/2015.

[No.L-40012/32/2005-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: SRI KEWAL KRISHAN, Presiding Officer

Case No. I.D. No. 384/2005

Registered on 19.8.2005

Sh. Sarwan Kumar, s/o Sh. Amar Nath, resident of Village Jalowal, P.O. Bhunga, Distt. Hoshiarpur.

...Petitioner

Versus

1. General Manager, Bharat Sanchar Nigam Ltd., Ferozepur.
2. Union of India, through Secretary Ministry of Communications, Deptt. of Telecom Services, Sanchar Bhawan, New Delhi.

...Respondents

Appearances :

For the workman Sh. Arun Batra, Adv.

For the Management Sh. G. C. Babbar, Adv.

AWARD

Passed on 13.4.2015

Central Government *vide* Notification No. L-40012/32/2005 IR(DU) Dated 22.7.2005, by exercising its powers under Section 10 sub-section (1) Clause (d) and sub-section (2-A) of the Industrial Disputes Act, 1947 (Hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the action of the management of Telecommunication Known as Bharat Sanchar Nigam Ltd., Ferozepur in the terminating the services of Sh. Sarwan Kumar, S/o Sh. Amar Nath, Ex-Driver, *w.e.f.* 16.4.1999 by violating the provision of ID Act is legal and justified? If not, to what relief the concerned workman is entitled to and from which date?"

In response to the notice, the workman appeared and submitted statement of claim pleading that he was employed as Driver from 16.5.1995 to 31.3.1997 in the Office of SDO(T) Kotkapura on Vehicle No. PB-04D-7558 and from 1.4.1997 to 15.4.1999 in the Office of SDO(T), Muktsar on vehicle No. PB30A0576 and was paid Rs. 1560/- per month. He was issued identity card and paid wages on ACG-17. His attendance was marked in the attendance register. His services were terminated on 16.4.1999 without service of notice or payment of any retrenchment compensation. After termination of his services, new hands were employed. His termination was illegal, he be reinstated in service.

The respondent department did not file written statement but filed a copy of reply which it earlier filed in an

application under Section 33(c)(2) of the Act as its written statement. It is pleaded that the workman was not directly engaged by the management nor was paid any wages. Department entered into a contract with the contractor for managing the petty jobs on need basis and the department used to make the payment to the contractor. That the workman may have been engaged by the contractor.

Parties were given opportunity to lead their evidence.

In support of its case the workman appeared in the witness box and filed his affidavit reiterating the case as set out in the claim petition.

On the other hand the management has examined Sh. Gurdeep Singh and Sh. P.D. Kansal who filed their affidavits reiterating the stand taken in their reply filed under Section 33(c)(2) of the Act.

It may be added that the respondent management moved an application seeking permission to replace the written statement and its application was declined vide detailed order dated 20.5.2014.

I have heard sh. Arun Batra, counsel for the workman and Sh. G.C. Babbar for the management.

It was argued by Mr. G.C. Babbar, counsel for the management that there was no relationship of employer and employee between the parties and the management has given a contract to the contractor for managing the petty jobs and the workman was never its employee and therefore he is not entitled to any relief.

It may be added that the case of the workman is that he was employed as Driver by the management for the period 16.5.1995 to 31.3.1997 at Kotkapura and then from 1.4.1997 to 15.4.1999 at Muktsar for driving different vehicles. The workman while appearing in the witness box has supported these assertions. He has also relied on the certificates dated 31.3.1997 WW1/2, dated 17.4.1998 WW1/3 and a certificate WW1/4 being issued by the SDO concerned wherein, it was certified by them that the workman worked as Lorry Driver at Kotkapura from 16.5.1995 to 31.3.1997 and at Muktsar from 12.5.1997 to 15.4.1999. The department has examined Sh. P.D. Kansal who did not identify the signature of officer of the department appearing on the certificates. But it is in the knowledge of the department who were posted as SDO during the relevant period at Kotkapura and Muktsar and they have not been examined by the department to controvert the authenticity of the said certificates. These certificates gone a long way to prove that the workman worked as a lorry driver during the period in question.

Again there is a certificate WW1/9 issued by the Junior Telecom Officer, Kotkapura for having received logbook for the period 16.11.1995 to 31.3.1997 from the workman. Again a certificate dated 2.9.1998 Exhibit WW1/6 shows that logbook was received for the period 31.3.1998 to

31.8.1998 by the SDO (Phone), Muktsar and a logbook for the period 9.5.1997 to 31.1.1998 was received by the SDO as per certificate Exhibit WW1/5 from the workman. These documents were proved by the workman while appearing in the witness box but the department did not dare to deny the correctness of these documents by examining any of the persons who were posted in the office at the relevant time. These documents further prove the case of the worker that he was engaged as a driver by the respondent department during the period in question, and otherwise, logbook would not have been received from him.

No doubt, Gurpreet Singh and P.D. Kansal have reiterated the stand of the management but their statements are of no help to the department as they were not posted at the relevant station at the relevant time. The case of the management is that they have given the work to the contractor and the workman may be a person of the contractor. The fact is not again proved by the management by examining the contractor and in the absence of this evidence, it cannot be said that he was the man of the contractor much less in the presence of the certificates discussed above. Thus, it is to be held that he was engaged by the respondent management.

The workman was engaged as driver by the respondent management from 16.5.1995 to 15.4.1999. His services were terminated with serving any notice or payment of any retrenchment compensation and therefore the termination of his services are not legal.

The respondent department is a statutory body and has its rules and regulations for employing the persons but nothing has come on the file that the workman was employed by the following any procedure by the department. Therefore, in the circumstances, reinstatement of the workman cannot be ordered. However he is to be given compensation for termination of his services which were terminated without payment of any retrenchment compensation. He worked for several years with the department and according to him, as deposed during cross-examination, his salary was Rs. 1560/- per month. The workman was to be given compensation in lieu of one month's notice and 15 days' salary for each completed year. The services for the workman were terminated in the year 1999. Considering the entirety of the circumstances and by doing the guess work, the workman is awarded Rs. 1,00,000/- as just compensation.

In result, the reference is answered holding that action of the management in terminating the services of the workman is not legal and justified and he is awarded Rs. 1,00,000/- as compensation and the respondent shall pay the same to him within two months of the publication of the award filing which workman shall be entitled to 9 per cent interest from the date of the award till realization on the awarded amount. Let hard and soft copy of the award be

sent to the Central Government for information and further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 14 मई, 2015

का.आ. 1042.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार गल्फ सिक्योरिटीज, गुडगांव के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 241/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/5/2015 को प्राप्त हुआ था।

[सं एल-14012/18/2011-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 14th May, 2015

S.O. 1042.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 241/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Gulf Securities, Gurgaon and their workman, which was received by the Central Government on 14/05/2015.

[No. L-14012/18/2011-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: SRI KEWAL KRISHAN, Presiding Officer

Case No. I.D. No. 241/2012

Registered on 23.4.2012

Shri Karnail Singh, R/o Village Syamtoo, PO Rattewali, Tehsil and District Panchkula, Haryana.

...Petitioner

Versus

The Proprietor/Manager M/s Gulf Securities, W-112 Regency Parki-4 DLF City, Gurgaon, Haryana.

...Respondents

Appearances :

For the workman Ex parte.

For the Management Sh. P.K. Longia, Adv.

AWARD

Passed on 28.4.15

Central Government *vide* Notification No. L-14012/18/2011-IR (DU) Dated 6.2.2012, by exercising its powers under

Section 10 Sub-section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management M/s Gulf Securities, Gurgaon, a contractor of TBRL(DRDO) Chandigarh in terminating the services of Sh. Karnail Singh S/o Sh. Chajju Ram *w.e.f.* 17.4.2011 is legal and justified? What relief the workman is entitled to?"

The workman submitted statement of claim pleading that he was engaged by the respondent on 22.5.2010 and he performed his duties successfully. His pay was Rs. 6111/- per month. He asked for leave which annoyed the Senior Security Officer, TBRL, Ramgarh Range who refused to allow him to work on 18.4.2011. Thereafter he was not allowed to perform his duties and thus his services were terminated without paying him any retrenchment compensation as well the persons junior to him were retained in service. Since his termination is illegal, he be reinstated in service.

Respondent No. 1 filed written statement pleading that it was given contract for maintaining security for a period of one year from 17.5.2010 to 16.5.2011 which was to be extended for three years and the contract has come to an end on 16.5.2003. That the workman was engaged on contract basis on 22.5.2010 for less than one year. However, he abandoned the job on 17.4.2011 and never reported for duty.

Parties were given opportunities to lead their evidence.

The workman availed several opportunities but did not lead any evidence. He was proceeded against *ex parte vide* order dated 26.2.2015.

Counsel for the respondent closed his evidence.

I have heard Sh. P.L. Longia, counsel for the management.

It may be added at the outset that workman earlier also agitated the matter and the Government referred the dispute *vide* Notification [No. L-14012/19/2011 (IR(DU))] dated 8.2.2012. This reference was dismissed by the Court *vide* order dated 10.10.2012 as workman failed to appear there as is clear from the copy of the order placed on the file. When the dispute between the parties had already been referred and decided by the Court, the present reference is not maintainable.

It is the case of the workman that he was not allowed to do his duty on and after 18.4.2011 but no evidence has been led by him in support of his issue and in the view of the definite case of the respondent that he abandoned the job after 17.4.2011 cannot be disbelieved and it cannot be said that it is a case where retrenchment compensation was to be paid to the workman.

It result, the reference is answered holding that the services of the workman were not terminated by the respondent and he is not entitled to any relief. Let hard and soft copy of the award be sent to the Central Government for information and further necessary action.

KEWAL KRISHAN, Presiding Officer.

नई दिल्ली, 11 मई, 2015

का.आ. 1043.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार हैवी एलाय पेनेट्रेटर (मिनिस्ट्री ऑफ डिफेन्स) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 13/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08/05/2015 को प्राप्त हुआ था।

[सं एल-42011/133/2014-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 11th May, 2015

S.O. 1043.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 13/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Heavy Alloy Penetrator Project (MoD) and their workmen, which was received by the Central Government on 8/05/2015.

[No. 42011/133/2014-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 27th April, 2015

Present : K.P. Prasanna Kumari, Presiding Officer

Industrial Dispute No. 13/2015

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Heavy Alloys Penetrator Project (Ministry of Defence) and Two Others and their workman]

BETWEEN

The General Secretary, HAPP : 1st Party/
Contract Thozhilalar Sangam Petitioner Union
1/594, Pallivasal street,
Poolangudi Colony, HAPP Post
Trichy-620025

AND

- | | |
|---|-------------------------------|
| 1. The General Manager
Heavy Alloy Penetrator
Project (MoD)
Trichirappalli-620025 | : 2nd Party/1st
Respondent |
| 2. Sri Palanivel (Contractor)
M/s Vannam Contractor
H-91, Anna Nagar
Trichy 620026 | : 2nd Party/1st
Respondent |
| 1. Sri S. Ramachandran
(Contractor)
M/s Sree Security Services,
Pudukottai Main Road
Anna Nagar, Mathur Post,
Pudukottai District
Tamil Nadu-622001 | : 2nd Party/3rd
Respondent |

Appearance:

For the 1st Party/Petitioner Union : Sri D. Muthukumar,
Advocate

For the 2nd Party/1st Respondent : Sri A Ashok Kumar
ACGSC

For the 2nd Party/2nd Respondent : Set Ex-parte

For the 2nd Party/3rd Respondent : Set Ex-parte

AWARD

The Central Government, Ministry of Labour & Employment *vide* its Order No. L-42011/133/2014-IR (DU) dated 19.01.2015 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the demand of the Union seeking higher wages to the contract labourers working in the establishment of HAPP is legal and justified? If so, to what relief the concerned workmen are entitled to?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 13/2015 and notice was issued to both sides. Both sides have entered appearance through their counsel.

3. The dispute has come up for hearing for the first time on 12.02.2015. The petitioner has entered appearance on the that day itself. After the first hearing date the case was repeatedly posted for filling Claim Statement and documents on the side of the petitioner. In spite of six postings and two and half months having lapsed the petitioner has not filed even the Claim Statement. The Petitioner seems to be too negligent in proceeding with the case. In the absense of any material the case is to be disposed without considering it on merits.

The reference is answered against the petitioner.

An award is passed accordingly.

(Dictated to the P.A. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 27th April, 2015.

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined

For the 1st Party/Petitioner : None

For the 2nd Party/1st, 2nd and
3rd Management : None

Document Marked:
On the petitioner's side

Ex. No.	Date	Description
	Nil	

On the petitioner's side

Ex. No.	Date	Description
	Nil	

नई दिल्ली, 11 मई, 2015

का.आ. 1044.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मणिपाल यूनिवर्सिटी मणिपाल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बैंगलोर के पंचाट (संदर्भ संख्या सीआर नं. 49/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08/05/2015 को प्राप्त हुआ था।

[सं एल-42012/31/2009-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 11th May, 2015

S.O. 1044.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D CR No.49/2009) of the Central Government Industrial Tribunal-Cum-Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of the Manipal University, Manipal and their workmen, which was received by the Central Government on 08/05/2015.

[No. L-42012/31/2009-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 13th April, 2015

Present : Shri S N Navalgund, Presiding Officer

C R No. 49/2009

I Party

The President
Manipal University Mazdoor
Union, C/o BMS Office, Felix
Pai Bazar,
Mangalore - 575 001.

II Party

: Registrar,
Manipal University,
Madhav Nagar,
Manipal - 576 104

Appearances :

I Party : Smt. H. Mangalamba Rao
Authorised Representative

II Party : Sh. K S Bhat
Advocate

AWARD

1. The Central Government vide Order No. L-42012/31/2009-IR(DU) Dated 06.10.2009 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Disputes Act, 1947 has made this reference for adjudication with following Schedule:

SCHEDULE

"Whether the action of the management of the Registrar, Manipal University in terminating the services of their workman Smt. Sabitha Poojarthy w.e.f. 28/07/2006 is legal and justified? If not, what relief the workman is entitled to?"

2. On receipt of the reference while registering it in CR 49/2009 when notices were issued to both the parties the I Party entered appearance through Smt. H Mangalamba Rao, President, MAHE Mazdoor Union and II Party entered appearance through Sh. K S Bhat, Advocate and I Party filed claim statement on 03.11.2009, whereas, the II Party filed the counter statement on 23.06.2010.

3. The I Party in her claim statement besides contending that the finding of the Enquiry Officer was not based on evidence and that the punishment imposed is disproportionate since also contended the enquiry conducted was bad for non-payment of full subsistence allowance while raising a Preliminary Issue as to "Whether the Domestic Enquiry held against the I Party by the II Party is fair and proper?" after receiving the evidence adduced by both the sides and hearing their learned advocates by Order dated 04.07.2012 the said issue came to be answered in favour of the II party i.e., the Domestic Enquiry held against the I Party by the II Party is fair and proper. Then the I Party Authorised Representative while filling the affidavits of the Sabitha/I Party workman and Sh. Purushotam, General Secretary of the I Party Union on the Point of Victimization and unemployment examined them on oath as WW 1 (V) and WW 2 (V) and arguments addressed by both the sides were heard.

4. The briefs facts leading to this reference and award may be stated as under.

5. Smt. Sabitha Poojarthy (hereinafter after referred as I Party Workman) who was appointed as Junior General Worker by order dated 24.08.2001/Ex P-6 on complaint by Warden of the Hostel and others while issuing a Show Cause Notices, on her reply of denial being not satisfied with the same the Chief Warden while issuing a Memo/Ex P-24 on her reply of denial keeping her under suspension through Memo dated 28.01.2004/Ex P-25 by appointment Sh. K S N Adiga as Enquiry Officer and Sh. Suresh Shetty as Presenting Officer a Domestic Enquiry was held and Enquiry Officer while observing the formalities of preliminary hearing recording evidence of Prof. Dr. Annie Shirwaiker and Sh. AS Sohal as PW 1 and PW 2 exhibiting Ex P-1 to ex P-28 the detailed description of which are narrated in the annexure and recording statement of CSE and exhibiting Ex D-1 to Ex D-14 the detailed description of which are narrated in the Annexure when submitted the enquiry finding Charge No. 1 as partly proved; Charge No. 3 Proved; Charge No. 2 and 4 as Not Proved, the Disciplinary Authority while issuing a show cause notice to give explanation to the enquiry finding after she giving her explanation affording her an opportunity of hearing by order dated 28.07.2006 Dismissed her from services. Since the Appeal of the I party workman the Appellate Authority/Registrar since dismissed saying that there were no merits by his order dated 26.10.2006 the I Party Union approached the ALC(C), Mangalore and on his submission of FOC dated 27.04.2009, this reference came to be made for adjudication.

6. According to the I Party its workman who was though initially appointed as Junior General Worker after putting number of years service she was promoted as Telephone Attender and later the Warden of Hostel when insisted her to do the work of cleaning the Toilet she denied as such her denial was not insubordination and that the management was not justified in asking her to clean the toilet as such the finding Charge No. 1 is partly proved and Charge No.3 is proved is not justified and same is perverse and the punishment imposed on such finding is not sustainable, therefore, the Point that revolves for my consideration is whether the I party workman was promoted as Telephone Attender as such after serving as Telephone Attender for a period of 9 years she was not liable to work as Junior General Worker one of whose is cleaning the Toilet. Ofcourse, there is no dispute that for some time the I party workman was asked to work as Telephone Attender in the Hostel but there is nothing to show that the Post of a Telephone Attender is superior to the work of the Junior General Worker. There is no dispute that the I Party workman was appointed as Junior General Worker by order dated

24.08.2001 the copy of which was produced as Ex P-6 in the enquiry and there is also no dispute as to the duties of the General Worker deputed to Hostel as detailed in Ex P-7 produced in the Domestic Enquiry which reads as under

"Duties of General Workers deputed to Hostels

- a) A general worker deputed to hostels will work under the directions of Block Supervisors.
- b) They shall be directly responsible to the block supervisor as for as their employment attendance etc.
- c) They shall carry out all the work as detailed by block supervisor.
- d) The following are some such duties
 - i) Cleaning of hostel area both outside and inside.
 - ii) Cleaning of corridors and students living rooms.
 - iii) Cleaning of bathrooms and latrines.
 - iv) Work as room boys and telephone messengers".

7. Since as per Sub-Clause (d) of Clause 4, a General Worker deputed to Hostel is to do the duties (No. i) Cleaning of hostel area both outside and inside; (ii) Cleaning of corridors and students living rooms; (iii) Cleaning of bathrooms and latrines and (iv) Work as room boys and telephone messengers, if for some time the I party was entrusted with the work of Telephone Messenger/Attender she cannot claim that she was promoted to the post of Telephone Messenger/Attender because this was also one of the duties of General Workers deputed to Hostels. The warden for the Hostel looking to the needs may assign the Junior General Duty Workers any of the duties described in Sub-clause (d) to clause 4. Since the duties of the General Workers deputed to Hostels was cleaning of Hostel area both outside and inside; cleaning of corridors and students living rooms; cleaning of bathrooms and latrines; work as room boys and telephone messengers, the I party workman who was for some time asked to attend the work of telephone messenger/attendant could not have denied the work of cleaning Bathrooms and Latrines as admittedly done by her, which do amount to Commission of Acts subversive of discipline by not attending to work though being present in premises and wilful insubordination and disobedience to lawful and reasonable orders of the superiors by not attending duties assigned. Therefore, absolutely I find no reason to say the finding of the Enquiry Officer the Charge no. 1 and 3 being proved. Since the I party workman appointed as a Junior General Worker and deputed to work at Hostel since admittedly denied to clean

the Bathroom and Toilets which was one of her duties as defined under sub-clause (d)(iii) to clause 4 of Service conditions and even now she tried to justify her denial to work which she was bound to do the Disciplinary Authority had no other choice except to dismiss her from Service as such I also do not find any reason to say that the punishment of dismissal being disproportionate. In the result having arrived at conclusion the action of the management of the Registrar, Manipal University, in terminating the services of their workman Smt. Sabitha Poojarthy w.e.f. 28/07/2006 is legal and justified, I pass the following.

ORDER

The action of the management of the Registrar, Manipal University, in terminating the services of their workman Smt. Sabitha Poojarthy w.e.f. 28/07/2006 is legal and justified and that she is not entitled for any relief.

S. N. NAVALGUND, Presiding Officer

Annexure-1

Documents exhibited on behalf of the Management in Domestic Enquiry

- Ex P-1 : Complaint letter dated 04.07.2003 by the Warden of Sonia Block
- Ex P-2 : Letter by the Warden of Sonia Block in reply to the management Letter dt. 09.08.2003
- Ex P-3 : Letter of the management dt. 09.08.2003
- Ex P-4 : Show-Cause Notice dt. 30.08.2003
- Ex P-5 : Explanation dt. 02.09.2003 by the delinquent to the show cause notice dated 30.08.2003
- Ex P-6 : Appointment Order dt. 24.08.2001 appointment the delinquent as Jr. General Worker in MAHE Hostels
- Ex P-7 : List of duties of General Worker published by the Management
- Ex P-8 : Letter of the delinquent dt. 01.01.2003
- Ex P-9 : Explanation dt. 18.04.2003 by the delinquent to the show-cause notice dt. 12.04.2003
- Ex P-10 : Original of Ex P - 5
- Ex P-11 : Transfer Order dated 21.06.2003 by the management transferring the delinquent from Chandra Shekara Hostel to Sonia Block
- Ex P-12 : List of ladies, posted to the hostels as per the transfer order
- Ex P-13 : Letter of the management dt. 19.01.2004 sent to the delinquent
- Ex P-14 : Letter of the delinquent dt. 08.09.2003

- Ex P-15 : Warning letter by the management dt. 26.04.2003 to the delinquent
- Ex P-16 : Copy of Ex P 1
- Ex P-17 : Memo dt. 06.09.2003 issued by the warden to the delinquent
- Ex P-18 : Original of Ex P 14
- Ex P-19 : Memo dt. 16.09.2003 issued to the delinquent by the management
- Ex P-20 : History of the delinquent in respect of her irregularities prepared by the chief warden
- Ex P-21 : Memo of Non-performance dt. 20.01.2003 issued by the Chief Warden to the delinquent
- Ex P-22 : Copy of Ex P 16
- Ex P-23 : Memo/Charge sheet dt. 16.02.2004
- Ex P-24 : Suspension Orders dt. 28.01.2004
- Ex P-25 : Explanation dated 28.01.2004 to the suspension order
- Ex P-26 : Explanation dt. 24.02.2004 to the Memo/ Charge Sheet
- Ex P-27 : Notice of Enquiry dt. 01.09.2004.

Documents exhibited on behalf of the CSE in Domestic Enquiry

- Ex D-1 : Copy of the attendance register for the month of August 2001
- Ex D-2 : Copy of the Bio-data submitted by the delinquent to the management
- Ex D-3 : Copy of the Duty Roster for the month of August 1999
- Ex D-4 : Copy of the Duty Roster for the month of September 1999
- Ex D-5 : Copy of the Duty Roster for the month of October 1999
- Ex D-6 : Copy of the Duty Roster for the month of November 1999
- Ex D-7 : Copy of the Duty Roster for the month of June 2000
- Ex D-8 : Copy of the Duty Roster for the month of February 2000
- Ex D-9 : Copy of the Duty Roster for the month of March 2000
- Ex D-10 : Copy of the Duty Roster for the month of April 2000

- ExD-11 : Copy of the Duty Roster for the month of May, 2000
- ExD-12 : Copy of the Duty Roster for the month of September 2000
- ExD-13 : Mahe Madicare Membership card valid from 01.07.2001
- ExD-14 : Mahe Madicare Membership card card valid from 01.07.2002

नई दिल्ली, 11 मई, 2015

का.आ. 1045.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बजाज इलेक्ट्रिकल्स लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार नेशनल इंडस्ट्रियल ट्रिब्यूनल, मुंबई के पंचाट (संदर्भ संख्या एनटीबी-3 का 2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 08/05/2015 को प्राप्त हुआ था।

[सं एल-42012/42/2013-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 11th May, 2015

S.O. 1045.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. NTB-3 of 2013) of the Central Government National Industrial Tribunal, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bajaj Electricals Limited and their workman, which was received by the Central Government on 08/05/2015.

[No. L-42012/42/2013-IR (DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL, MUMBAI

Present :

Justice S.P. MEHROTRA,
Presiding Officer

REFERENCE NO. NTB-3 OF 2013

- Parties** : Employers in relation to the management of Bajaj Electricals Limited
- And
- Their workmen

Appearances :

- For the first party/Management : Mr. M.S. Paranjpe,
Adv.

- For the second party/workmen : Mr. A.K. Muraleedharan,
General Secretary
- State : Maharashtra

Mumbai, dated the 13th day of April, 2015

AWARD

1. In exercise of the powers conferred by sub-section (1-A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter to as "the Act"), the Central Government has referred the following dispute to this Tribunal:

Whether the action of the management of M/s. Bajaj Electricals Limited, Mumbai, in not considering the charter of 20 demand (as per Annexure), is legal and justified? If not, to what relief the concerned workmen are entitled to?"

2. By the Order dated 27.6.2013, Notices were directed to be issued to the Parties.

3. Mr. M.S. Paranjpe, learned counsel for the first party/Management, who has filed his Authority today, is present.

Mr. Sanjay Gurav, Chief Manager, Human Resources in Bajaj Electricals Limited is also present on behalf of the first party/Management.

Mr. A.K. Muraleedharan, General Secretary, All India Bajaj Electrical Employees' Federation i.e. second party/Union is also present.

4. No statement of Claim has as yet been filed in the present case.

5. A Joint Application has been filed today on behalf of Bajaj Electricals Ltd., i.e. first party/Management and All India Bajaj Electricals Employees' Federation, i.e. second party/Union. The said Joint Application is signed by the aforesaid A.K. Muraleedharan, General Secretary, All India Bajaj Electricals Employees' Federation (second party/Union) and Mr. Atul Sharma, President-Human Resource and Administration, Bajaj Electricals Ltd.

The said Joint Application is further signed by Mr. P.J. Sarfare, learned counsel for the second party/Union and Mr. M.S. Paranjpe, learned counsel for the first party/Management.

It is, *inter-alia*, stated in the said Joint Application that the parties to the present Reference have signed an amicable Settlement on 9.9.2014, and consequently, very "cause of action" pertaining to the Reference has come to an end. A Photostat copy of the aforesaid Settlement has been annexed with the aforesaid Joint Application.

8. Mr. M.S. Paranjpe, learned counsel for the first party/Management and Mr. A.K. Muraleedharan, General Secretary, All India Bajaj Electricals Employees' Federation (second party/Union) state that in view of the averments

made in the aforesaid Joint Application, the Industrial Dispute forming the subject-matter of the present Reference no longer survives, and the Reference be decided accordingly.

9. Having regard to the averments made in the aforesaid Joint Application and in view of the statements made above on behalf of the parties, it is evident that the Industrial Dispute forming the subject-matter of the present Reference no longer survives.

10. Reference is therefore, answered by stating that the Industrial Dispute forming the subject-matter of the Reference no longer survives.

11. Award is passed accordingly.

Justice S. P. MEHROTRA, Presiding Officer

नई दिल्ली, 14 मई, 2015

का.आ. 1046.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड, गया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2 धनबाद के पंचाट (संदर्भ संख्या 22 का 2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 13/05/2015 को प्राप्त हुआ था।

[सं एल-40011/29/2011-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 14th May, 2015

S.O. 1046.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. Ref. No. 22 of 2011) of the Central Government Industrial Tribunal Cum Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited, Gaya and their workmen, which was received by the Central Government on 13/05/2015.

[No. L-40011/29/2011-IR(DU)]

P.K. VENUGOPAL, Dest Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

PRESENT:

Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) of the I.D. Act, 1947.

REFERENCE NO. 22 OF 2011

PARTIES : The General Secretary,
Gaya Zila Adhyogic Kamgar Union, Gaya,
UO-Kachari
Compound, Gaya

Vs.

The General Manager,
Bharat Sanchar Nigam Limited,
Gaya.
Order No. L-4011/29/2011-IR(DU)
dt. 04.08.2011

APPEARANCES:

On behalf of the : Mr. Shekhar Sharma, Ld. Advocate
workman/Union

On behalf of the : Mr. Sushil Prasad, Ld. Advocate
Management

State : Bihar Industry : Telecommunication

Dhanbad, dated the 30th April, 2015

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-40011/29/2011-IR(DU) dt. 04.08.2011.

SHCHEDULE

"Whether the action of the Management of BSNL, Gaya in not regularizing the 51 workers (List enclosed) out of a total of 97 casual workers engaged by them while regularizing the remaining 20 such casual workers is legal and justified? What relief the workmen are entitled to?"

On receipt of the Order No. L-40011/29/2011-IR (DU) dt. 04.08.2011. of the above mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 22 of 2011 was registered on 23.08.2011 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Workmen and the O.P./Management through their Ld. Advocates appeared respectively, and contested the case.

2. The case of workman Rajvansh Kumar and others total 51 (as per List enclosed) as sponsored by the General Secretary of the Union concerned is that the Bharat Sanchar Nigam Ltd., (hereinafter referred to as BSNL) is a

Government of India Enterprises having a Corporate Office at Sanchar Bhawan, New Delhi-110001. The BSNL has established several Telecom districts all over India for the purpose of administrative convenience. The Telecom District Gaya is one of them under the General Manager for the control of its entire affairs. Every Telecom district is heavily loaded with much work due to evolutionary change in the fields of the telecommunication. The casual labourers as per the need of telecom were engaged by the Authorities of BSNL at their different branches. The casual labourers have been working in such working conditions at the different branches of GMTD, Gaya from 1993 to 2004; they have been deprived of even minimum wages and other service benefits. The BSNL Management repeatedly gave the casual workers false assurance for the regularization, by adopting the tactics of delayed discrimination for actual verification of payment register. On the demand of the casual workers for regularization, the GMTD., Gaya as per the letter No. E-292/Casual Labour/104/dt. 30-05.2001 had initiated a process for grant of their temporary status Mazdoor and Daily Rated Mazdoor commonly known as TSM and DTM respectively. The General Manager as per the letter No. E. 292/TSM/5 dt. 10.9.2002 sent a Performa for submission of detailed report over the casual workers working in different area of GM, TD, Gaya. The S.D.E. (Admn.) of the GM, TD, Gaya. The S.D.E. (Admn.) of the GM, T.D, Gaya by the letter No. E-292/Rectt/11/RM/49 dt. 20.09.2002 Invited application for grant of temporary status Mazdoor from the casual workers completing 240 days in any year, forwarding its copies to the Higher Authorities, Patna and the concerned Authority of GM, TD, Gaya for needful. Even after expiry of about ten years, no workers except 20 ones out of total 97 ones were regularized by the Management in spite of their continuously working as per their duty charts already submitted before the A.L.C.(C), Patna Despite all the steps of the Management, the workers' engagement, was denied by the Management as per the letter No. GTD/Lab/06-07/12 dt. 14.07.2008.

Further alleged on behalf of the workers is that the Management without maintaining any seniority list regularized only 20 workers illegally and motivatedly. Such acts of the management are totally unjustified and prejudicial to the interest of the 51 workers. So the Management concerned be directed for the regularization of these workers with their salary, arrears with all benefits from the date of 20 workers' regularization.

No rejoinder filed on behalf of the sponsoring Union for the workmen

3. Whereas challenging the maintainability of the reference in law and facts, the counter case of the OP/ Management is that the present case of the 51 workmen does not come under the purview of Sec. 25 of the Industrial Dispute Act. They never worked against any permanent vacancy. Neither any vacancy was advertised nor the

names of the workmen were forwarded by the Employment Exchange concerned. The workmen tried to enter in the Government Company through back door illegally. The conciliation proceeding failed for the reason.

4. Further the OP/Management in their simultaneous para-wise rejoinder has denied all the allegations of the workmen as incorrect, stating that the entire affairs of the BSNL, Gaya, controlled by the Corporate Office of BSNL and the Ministry of Communication. Neither the BSNL is loaded with work nor work is being taken from casual labourers. The Management has not engaged any casual labour since 1986. The TSM/DRM who were engaged prior to 1986 were given temporary status as per the order and directions of the Government, so only they were regularized. The GM, TD, Gaya, had only asked about casual labour if any, working in his telecom district. Since not any casual labour was working in the Telecom district under any SDE, hence the report was accordingly sent to the GM, TD, Gaya. Not a single person as per list of the present proceeding was ever appointed by or ever worked under the Management directly. The statement of their engagement by and that of their working under the Management is totally false and fabricated. Neither the persons as per their list were engaged as casual labourers nor they had fulfilled the required eligibility criteria, so there is no reason for their regularization. Thus, the claim of the person for their regularization entirely wrong. They are not entitled to any relief.

FINDING WITH REASONS

5. In the instant reference, WWI Shyam Lal Prasad as the General Secretary of the Union, WW2 Virendra Kumar, one labourer for the Union concerned, and MW1 Prakash Mandal, the SDE (Legal) for the OP/Management of BSNL, Gaya, have been respectively examined.

Mr. Shekhar Sharma, Ld. Counsel for the Union/workmen has submitted that in pursuance of the GM, TD, Gaya's letter No. E. 292/Casual Labour/103 dt. 31.05.2001 (Ext. 3 with objection), the SDE (Admn.) O/o the GM, TD, Gaya as per his letter dt. 10.09.2002 (Ext. 3/1 with objection) had sought from (GOS) of the 531/The S.D.E. (10B) for submission of report in the Peforma as required within a week; the SDE (Admn.) of GM, TD, Gaya as per his letter dt. 20.09.2002 with copies to all Higher Authorities (Ext. W.3/2 with objection) invited application in prescribed Performa from amongst the casual labourers/DRMs having completed 240 days in any one year as on 31.03.2002 for grant of temporary status of Mazdoor, and lastly as per the letter dt. 28.02.2003 of the Account Officer (C), O/o the GM, TD, Gaya to the SDE (Admn.) concerned with reference to the latter's letter dt. 24.12.2002 (Ext. W.1 with objection), the applications of 97 persons received for verification were returned with report partially. Further Mr. Sharma emphatically submitted that the Notice (Letter) dt. 24.01.2006 of the SDE (Admn.), O/o the GM, TD, Gaya,

certifies that out of the applications received in the office from the people who were reportedly engaged by the Field Officers of the SSA, for regularization, only the nine applications of the persons were found complete in all respect, but the rest applications were advised to take back and submit their applications after competing all entries within three weeks times; and thereafter as per his letter dt. 07.06.2006 of the SDE (Admn.) to the Chief Accounts Officer concerned (Ext. W.1/2 with objection) 37 (thirty-seven) applications as Annexure-I were sent to verify the mandays of the persons from the ACE-2 vouchers etc., and to return the same with number of days in each year for which payment made as per records concerned. It is also submitted by Mr Sharma that only 20 workers, junior to the instant workmen, out of total 97 workers were regularised, but these instant workmen each in spite of their continuous working for more than 240 days in each of the years from 1993 to 2004 as evident from their documents (Extt. 2 Series) as also proved by both the witnesses WW1 Shyam Lal Pd., the General Secretary of the Union, and WW2 Virendra Kumar, one of the workmen, have not been regularized by the OP/Management, so the OP/Management can not deny their regularization, and thus they are entitled to it.

6. Whereas Mr. Sushil Prasad, Learned Counsel for the OP/Management has categorically contended that all the alleged workers had no employer-employee relationship with the Management, as none of them was appointed or engaged as casual workers by the Management and all the alleged documents including Annex II (Ext. W.1/2) seem nothing except fabrications as asserted by MW1 Prakash Mandal, the Sub-Divisional Manager (Legal) with intent to get the relief, as the WW2 Virendra Kumar, one workman, has admitted all the applications along with the period of the engagement after fulfilling themselves under their own signatures. Further it is contended that the OP/Management has certain procedure for appointment of any person under the Management of the Post Office such as publication of a vacancy in the Daily News paper against the specified sanctioned post, forwarding the names of candidates through the Employment Exchange concerned etc., then issuance of appointment letter subject to the observation of the constitutional guidelines over the reservation of the posts for SC, ST and Backward classes of the Society; thus the reference devoid of any merits is liable to be rejected.

7. On persual of the materials available on the case record, I find that these 51 casual Laborers (as the list enclosed with the Reference) claimed having been included in the list of total 97 Labourers as per the letter dt. 28.02.2003 of Accounts Officer (C) O/o the GM, TD, Gaya (Ext. W.1 with objection) related to verification of thier application about their names, mandays and working under Gaya SSA. But out of the total instant 51 alleged casual workers, only 20 workers' names appear to be included in the list of 97 workers as such:

Sl. No.	Of 51 workers' List of the instant Reference	Sl. No. Of 91 workers' List (Ext. W.1 with objection)
2	Virendra Kumar	23
3	Arjun Kumar Roy (Ram)	81
4	Ranjit Prasad	31
5	Dinesh Kumar	30
6	Sita Ram Rajak	32
7	Indradeo Rajak	33
10	Siya Ram Bhagat	80
11	Sadhu Saran Yadav	07
12	Ajay Kumar	52
13	Suresh Kumar	57
14	Birendra Chaudhary	51
18	Pramod Das	55
20	Bali Ram Prasad	58
21	Naresh Kumar	56
23	Raj Kishor Kumar	50
25	Lallu Prasad	26
26	Satyendra Prasad	29
27	Dilip Kumar	35
35.	Raj Kumar	63
45	Shashank Shekhar Bhatt	64

Total 20 workers including twice named five workers namely S/Shri Ramjee Prasad, Arjun Kumar Ram (Roy), Sita Ram Rajak, Dinesh Kumar and Shashank Shekhar Bhatt under Sl. Nos. 13, 14, 18, 30 and 34 of the Annex I. Rest workers' names are beyond the aforesaid list of 97 (Ext. W.1 with objection), out of which 19 + 1 outsider Ramnath Prasad were verified of their names and mandays. But the instant workmen failed to prove the earlier appointment of aforesaid 20 labourers by the OP/Management. Apart from it, further out of total nine persons as per the photocopy of the SDE (Admn.): O/o the GM, TD, Gaya letter dt. 24.01.2006 (Ext. W.1/1 with objection), only the names of five persons S/Sri Lallan Prasad, Lallu Pd., Smt. Rekha Devi, Birendra Kumar and Shankar Ram under their Sl. No. 95, 26, 71, 23 and 93 respectively of aforesaid list of 97 workers appear to be included, but rest four ones not. the SDE (Admn.), BSNL O/o GM, TD, Gaya's letter dt. 7.6.2006 (Photocopy Ext. 1/2 with objection) refers to the enclosure of 37 applications as Annex-I which contains the names of only five workers noted above under the list of 97 persons. In the instant reference, the claim of the total 51 workmen appears to be mainly based on the list of 97 workers as enlisted according to the letter dt. 28.02.2003 of the Accounts Officer to the SDE (Admn.) (Ext. W.1 with objection) But unfortunately, the base letter nowhere else mentions the names of rest 31 workers as noted in the List enclosed with the Reference under adjudication. Under such circumstances the Reference is taken up for

consideration of the issue of regularization concerning only aforesaid 20 workers as named in the present list of the Reference as noted in the aforesaid base letter. On verification of the Xerox copies/documents of aforesaid 20 workers, it is also evident that out of these twenty workers, four ones, namely Shri Suresh Kumar, Birendra Choudhary, Bali Ram Prasad and Raj Kumar under Sl. Nos. 13, 14, 20 and 35 respectively have not produced or proved any of their documents in support of their claim.

8. So far as the regularization of rest sixteen of the aforesaid original 20 workers concerned as noted in the aforesaid chart is concerned, none of them as casual workers had been in continuous service for a period of 240 days in any other case during a period of twelve calendar months preceding the date with the reference to which calculation is to be made as required as pre requisite to it under Sect. 25(a)(ii) of the Industrial Dispute Act 1947. As all of these original workers have no specific their working days during the last calendar years preceding the date of the reference in compliance of the aforesaid mandatory provision of the I.D. Act.

9. Mr. Shekhar Sharma, Ld. Counsel for the workmen has further submitted that in the case of denial of absorption or regularization in service to petitioner who was inducted into service of State Bank of Mysore as a temporary staff in 1985 and he was also intermittently employed on need based for such staff; in 1994-95, he claimed to have rendered more than 240 days of service in a calendar year, claiming to be included in "protected category", and applied for absorption as a permanent employee; in the peculiar facts and circumstances, respondent Bank was directed to absorb the petitioner as a permanent employee in the sub-staff on the basis of having rendered service for more than 240 days during the said years as held by the Hon'ble Supreme Court in the case of H.R. Rajashekhara Vs. State Bank of Mysore & other reported in 2012 (132) FLR 528 (DB). But in the instant reference, none of 16 original workers, namely, S/Shri Virendra Kumar, Arjun Kumar Roy (Ram), Ramjee Prasad, Dinesh Kumar, Sita Ram Rajak, Indraodeo Rajak, Siyaram Bhagat, Shadu Saran Yadav, Ajay Kumar, Pramod Das, Raj Kishor Kumar, Naresh Kumar, Lallu Prasad, Satyendra Prasad, Dilip Kumar and Shashank Shekhar Bhatt under Serial Nos. 2, to 7, 10 to 12, 18, 23, 21, 25 to 27 and 45 respectively of the List enclosed with the Reference has any crystal clear of their continuous services during the period for 1993 to 2004 as per their pleaded evidence as contrasted with their xerox documents.

Referring to 2012 (133) FLR 463(All HC) (SB), Ram Chandra Yadav Vs. State of U.P. & Ors Mr. Sharma submitted that in reference to Rule 4 of the UP Regularization of Daily Wages appointment on Group D Post Rules 2001, the claim of petitioner for regularization in service, being appointed on 1.1.1987, was rejected, then it was held by the Hon'ble

High Court, Allahabad, that the petitioner was appointed on the said date and aforesaid rules clearly applied to him; the petitioners should have continued in service on the date of commencement of the rule; persons who were continuously working though with breaks were required to be given the benefits of regularisation; Rule does not contemplate uninterrupted continuous service; petitioner's continuance in the department from 1991 to 2001 even with break itself indicated the requirement of his service by the department; in facts and circumstances of the case, Respondents were directed to issue order for regular appointment in favour of petitioner (Para 5 to 7). Whereas in the present reference, none of the workers was appointed, neither any has continuance in the department from any specified period.

Further the plea of Mr. Sharma is that an Award was passed by Industrial Tribunal, directing the Management to treat the respondent as its regular employee from 1987-88, when admittedly juniors had been regularized; as the workman himself in his claim statement stated that he had been discriminated against by the Management by not regularizing him w.e.f. 01.04.1991—hence the Writ petition was disposed of by modifying the Award to the extent that then the workman was granted the relief of regularization with that date, and not from 1987-88 as held in the case of Horticulture Deptt., Delhi Vs. Rajinder Prasad & Qrs., reported in 2013 (132) FLR 926 (Delhi. H.C.) But the instant Reference has no proof of admittedly junior having been regularized, so no question of any discrimination towards the casual workmen arises.

None of the aforesaid rulings appears to be applicable to the factum of the case as it stands before me.

10. On the other hand, Mr. Sushil Prasad, Ld. Advocate for the OP/Management has contended that any aforesaid casual workers has though no period of working for 240 days in a calendar year, yet he can not claim any right of automatic regularization of their service—even in cases where there are regular posts and vacancies, procedure laid down for appointment has to be followed as held by the Hon'ble High Court, Jharkhand in the case of Eng. In re. Mgt of Food Corp of India Vs. Union of India reported in 2008 (4) (L) (Para 14).

11. In view of the aforesaid factual findings, I find the reference is devoid of any merits worth calling any. Therefore, it is, in the terms of the references hereby responded and accordingly awarded that the action of the Management of BSNL, Gaya, in not regularizing the alleged 51 workers (list enclosed) out of total 97 casual workers engaged by them is quite legal and justified, and there is no proof of regularization of remaining 20 such casual workers earlier. Hence the alleged workmen, if any, are not at all entitled to any relief.

KISHORI RAM, Presiding Officer

List of the working Mazdoors

Sl.No.	Name	Father's Name	From
1.	Rajbansh Kumar	Sri Sukdeo Verma	03.01.1987
2.	Birendra Kumar	Late Lakhan Pd.	01.01.1993
3.	Arjun Kumar Roy	Late Radho Ram	01.04.1995
4.	Ramjee Prasad	Late Bhagwan Pd.	17.06.1997
5.	Dinesh Kumar	Sri Kailash Pd.	17.06.1997
6.	Sitaram Rajak	Sri Babulal Bhatha	17.06.1997
7.	Indradeo Rajak	Sri Ram Lakhan Rajak	17.06.1997
8.	Dev Saran Rajak	Sri Ram Bhikari Rajak	17.06.1997
9.	Satrudhan Kumar	Sri Nandlal Bhagat	01.01.1998
10.	Siyaram Bhagat	Sri Jagdish Bhagat	10.05.1999
11.	Sadhu Saran Yadav	Sri Ram Bishun Yadav	01.03.1999
12.	Ajay Kumar	Late Anil Pd.	14.04.1999
13.	Suresh Kumar	Sri Mohan Paswan	10.05.1999
14.	Birendra Choudhary	Sri Sadhu Choudhary	24.04.1999
15.	Nasib Lal Pandit	Sri Sabir Pandit	14.04.1999
16.	Rakesh Ranjan Roy	Sri Dashrath Yadav	14.04.1999
17.	Ashok Kumar	Sri Ram Jatan Pd.	21.04.1999
18.	Pramod Das	Sri Chandweshar Das	24.04.1999
19.	Yadhu Prasad	Sri Banshi Saw	31.10.1999
20.	Baliram Prasad	Sri Yadhu Prasad	24.04.1999
21.	Naresh Kumar	Sri Badree Das	10.05.1999
22.	Ram Kumar Verma	Sri Rameshwar Pd. Singh	24.04.1999
23.	Raj Kishor Kumar	Late Lal Chandra Singh	01.05.1999
24.	Navneet Ranjan	Sri Munshi Prasad	01.01.1999
25.	Lallu Pd.	Sri Jai Mangal Pd.	01.07.1999
26.	Satendra Prasad	Sri Shiv Nandan Prasad	17.03.2000
27.	Dilip Kumar	Sri Ram Lakhan Singh	01.01.2000
28.	Pramod Kumar	Sri Jairam Singh	01.01.2000
29.	Anuj Kumar	Sri Saryu Thakur	22.01.2000
30.	Vivekanand Kumar	Sri Tulsi Prasad	01.05.2000
31.	Sanjeev Kumar	Sri Damodar Lal	01.01.2000
32.	Shashi Bhushan Kumar	Late Mahendra Kr. Singh	01.01.2000
33.	Ram Chandra Choudhary	Sri Munilal Choudhary	01.01.2001
34.	Md. Saifi Alam	Md Sarraju Diddan	04.01.2001
35.	Raj Kumar	Sri Sadhu Saran Yadav	01.01.2001
36.	Sunil Kumar	Sri Uday Bhangi	02.02.2002
37.	Dharmendra Kumar	Sri Birendra Singh	14.04.2001
38.	Arun Kumar	Sri Ram Sawarup Mahato	01.01.2004
39.	Yamuna Yadav	Sri Ram Jatan Yadav	01.01.2000
40.	Anuj Kumar	Sri Jay Prakash Narayan	01.02.2003
41.	Praveen Kumar	Sri Avinash Saw	01.01.2003
42.	Pappu Ram	Late Surendra Ram	25.10.2001
43.	Arun Kumar	Sri Mahadev Mahato	08.08.2002

Sl.No.	Name	Father's Name	From
44.	Lal Keshar Paswan	Sri Sitaram Paswan	01.01.2001
45.	Shashank Shekhar Bhatt	Sri Shambhu Nath Bhatt	01.01.2001
46.	Sanjay Kumar	Sri Mundrika Ram	01.01.2001
47.	Santosh Kumar	Sri Basant Prasad	09.09.2002
48.	Arun Kumar	Sri Umesh Sinha	06.04.2002
49.	Pintu Kumar	Sri Bindeshwari Prasad	15.02.2005
50.	Uday Kumar	Sri Ram Baran Bhagat	01.01.2000
51.	Sudama Rajak	Sri Bhikari Rajak	01.01.2000

नई दिल्ली, 14 मई, 2015

का.आ. 1047.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिपार्टमेंट ऑफ पोस्ट्स, स्वाई माधोपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 26/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 13.05.2015 को प्राप्त हुआ था।

[सं० एल-40012/144/2002-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 14th May, 2015

S.O. 1047.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 26/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Department of Posts, Swai Madhopur and their workman, which was received by the Central Government on 13.05.2015.

[No. L-40012/144/2002-IR (DU)]

P. K. VENUGOPAL, Desk Officer

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर

सीजीआईटी प्रकरण सं० 26/2002

भरत पाण्डेय

पीठासीन अधिकारी

रेफरेन्स नं० एल-40012/144/2002-आईआर (डीयू)

दिनांक 13.09.2002

Shri Chhotey Lal Chhipi S/o Shri Moti Lal Chhipi,

Vill: & PO Wajirpur, The. Gangapur

Swai Madhopur (Rajasthan)

V/s.

1. The Supdt. of Post Offices,
Deptt of Posts,
Swai Madhopur (Rajasthan)-322001

प्रार्थी की तरफ से : श्री आर० सी० जैन—प्रतिनिधि
अप्रार्थी की तरफ से : श्री ब्रह्मानन्द सान्दू—एडवोकेट

पंचाट

दिनांक 29.04.2015

1. केन्द्रीय सरकार द्वारा औद्योगिक विवाद अधिनियम, 1947 की धारा 10 उप-धारा 1 खण्ड (घ) के अंतर्गत दिनांक 13.09.2002 के आदेश से प्रेषित विवाद के आधार पर यह प्रकरण न्यायनिर्णयन हेतु संस्थित है। केन्द्रीय सरकार द्वारा प्रेषित विवाद निम्नवत् है:—

2. "Whether the Extra Departmental Mail Career is a "Workman" as per Section 2(s) of the Industrial Disputes Act, 1947? If yes, whether the action of the management of Postal Department in terminating the services of Shri Chotey Lal Chhipi is legal and justified? If not, to what relief he is entitled to?"

3. स्टेटमेन्ट ऑफ क्लेम में दिये गये तथ्यों के अनुसार संक्षिप्ततः याची का कथन है कि उसकी नियुक्ति ब्रान्च पोस्ट ऑफिस, ग्राम परिता में दिनांक 30.08.1991 को ईडीएमसी के पद पर की गई और दिनांक 31.07.1992 को उसे सेवा से पृथक किया गया। दिनांक 30.08.1991 से दिनांक 31.07.1992 तक बिना किसी व्यवधान के वह निरन्तर नियोजित रहा। उस सेवा अवधि के दौरान प्रार्थी किसी आरोप से आरोपित नहीं रहा तथा उसकी सेवा से संबंधित कोई शिकायत नहीं रही, और उसकी सेवा पूर्ण रूप से संतोषजनक रही। आगे प्रार्थी का कथन है कि अपनी नियुक्ति की तिथि से सेवा से पृथक होने की तिथि 31.07.1992 तक की अवधि में एक कैलेंडर वर्ष में उसने 240 दिन से अधिक लगातार कार्य किया और लगातार कार्य करते रहने के कारण औद्योगिक कर्मकार हो गया तथा विपक्षी का संस्थान उद्योग होने के कारण औद्योगिक संस्थान रहा है। प्रार्थी विपक्षीगण के नियोजन में प्रतिदिन लगातार 8 घण्टे तक कार्य करता रहा है। प्रार्थी, अप्रार्थीगण के नियोजन में नियमित सेवा का लाभ प्राप्त न कर सके इसलिए बदनियती से विपक्षीगण ने दिनांक 01.08.1992 को प्रार्थी की सेवा समाप्त करने से पूर्व विपक्षी ने प्रार्थी सदृश कार्यरत दैनिक वेतन श्रमिकों की कोई वरिष्ठता सूची नहीं जारी की और न ही इसकी कोई सूचना नोटिस बोर्ड पर चस्पा की। इस प्रकार विपक्षीगण ने औद्योगिक विवाद अधिनियम, 1957 तथा राजस्थान राज्य संशोधन नियम, 1958 की धारा 77 एवं 78 का उल्लंघन किया।

4. याचिका के प्रस्तर 5 में कहा गया है कि सेवा से मुक्त करते समय वरिष्ठता सूची न जारी कर धारा 25 बी औद्योगिक विवाद अधिनियम, 1947 का उल्लंघन किया गया है और सेवा से मुक्त करने के पूर्व विपक्षी ने प्रार्थी को एक माह की नोटिस अथवा नोटिस के बदले एकमाह का वेतन और छटनी मुआवजा नहीं अदा किया, इस प्रकार प्रार्थी की सेवामुक्ति औद्योगिक विवाद अधिनियम, 1947 की धारा 25एफ के उल्लंघन में की गयी है। यह भी कहा गया है कि प्रार्थी की जगह विपक्षी द्वारा नई नियुक्ति की गयी और प्रार्थी के पद का कार्य विपक्षी संस्थान में उपलब्ध रहते हुए भी प्रार्थी को बेरोजगार करने के लिये प्रार्थी को सेवा से पृथक किया गया। प्रार्थी ने कई बार विपक्षी को पुनः नियोजन हेतु लिखित प्रतिवेदन दिये और विपक्षी से मिलकर मौखिक रूप से भी कहा

लेकिन नियोजन में नहीं लिया गया इस प्रकार धारा 25एच का उल्लंघन भी किया गया है।

5. प्रस्तर 8 में कहा गया है कि प्रार्थी ने अपने अधिवक्ता के माध्यम से विपक्षीगण को दिनांक 18.02.1994 और 02.01.1997 को कानूनी नोटिस पंजिकृत डाक से भेजा लेकिन कोई जवाब प्राप्त नहीं हुआ जिससे विपक्षीगण की बदनियती स्पष्ट जाहिर होती है।

6. विपक्षीगण द्वारा प्रार्थी की दिनांक 18.02.1994 और दिनांक 02.01.1997 की नोटिस को दिनांक 26.09.1997 को खारिज कर दिया गया और पुनः सेवा में लेने से इन्कार कर दिया जिसके बाद प्रार्थी ने दिनांक 12.02.1998 को केन्द्रीय प्रशासनिक अधिकरण, जयपुर के समक्ष मामला उठाया लेकिन केन्द्रीय प्रशासनिक अधिकरण, जयपुर ने दिनांक 24.11.2000 को प्रार्थी की आवेदन खारिज कर दी। प्रार्थी ने केन्द्रीय प्रशासनिक अधिकरण, जयपुर के आदेश दिनांक 24.11.2000 से व्यथित होकर माननीय राजस्थान उच्च न्यायालय, जयपुर के समक्ष दिनांक 24.11.2000 के आदेश के विरुद्ध याचिका प्रस्तुत की। माननीय राजस्थान उच्च न्यायालय, जयपुर ने दिनांक 17.01.2001 के आदेश से प्रार्थी को अपना विवाद सक्षम प्राधिकारी के समक्ष उठाने की राय दी, जिसके परिणामस्वरूप न्यायाधिकरण के समक्ष मामला उठाया गया है।

7. आगे प्रार्थी का कथन है कि विपक्षी के यहां प्रार्थी के पद का कार्य रहते हुए भी बदनियती से विपक्षी ने प्रार्थी को सेवा से पृथक कर दिया ताकि प्रार्थी नियमित सेवा का लाभ प्राप्त न कर सके, इस प्रकार विपक्षी का कार्य औद्योगिक विवाद अधिनियम, 1947 की धारा 5वीं अनुसूची के अनुसार श्रमिक विरोधीनीति का परिचायक है। प्रार्थी सेवामुक्ति की तिथि से अब तक बेरोजगार है और कहीं कार्यरत नहीं है। अतः प्रार्थी ने प्रार्थना की है कि उसकी सेवामुक्ति आदेश दिनांक 31.07.1992 निरस्त कर समस्त लाभ सहित उसे सेवा में पुनः स्थापित किया जाये।

8. विपक्षी की तरफ से वादोत्तर प्रस्तुत कर स्टेटमेन्ट ऑफ क्लेम के प्रस्तर 1 विरुद्ध यह कहा गया है कि पक्षकारों के बीच विवाद न्यायनिर्णयन के लिए प्रेषित होना स्वीकार है। डाक विभाग "उद्योग" की परिभाषा से आच्छादित नहीं है। ईडीएमसी (Extra Department mail career) की सेवाएँ Post and Telegraph Extra Departmental Rules, 1964 द्वारा नियंत्रित होती हैं और औद्योगिक विवाद अधिनियम, 1947 के प्राविधान लागू नहीं होते हैं। प्रार्थी स्टॉप गैप अरेन्जमेंट के अंतर्गत एवजी (प्रतिहस्त) के रूप में लगाया गया था तथा उसकी नियुक्ति प्रदत्त प्रक्रिया के अंतर्गत नहीं की गयी थी। प्रार्थी औद्योगिक विवाद अधिनियम, 1947 में परिभाषित "कर्मकार" की परिभाषा से आच्छादित नहीं है जैसा कि माननीय सर्वोच्च न्यायालय ने सिविल अपील संख्या 3385-86/1996, सब डिविजनल इन्स्पेक्टर पोस्ट ऑफिस जैकम एवं अन्य बनाम थेय्याम जोसफ एवं अन्य में अवधारित किया है। उक्त सिविल अपील के निर्णय की प्रति आर-1 वादोत्तर के साथ संलग्न है।

9. स्टेटमेन्ट ऑफ क्लेम के पैरा संख्या 2,3,4,5,6,8,9,10,11,12 व 13 के कथन को विशिष्ट रूप से इन्कार किया गया है। अतिरिक्त कथन में यह कहा गया है कि आवेदक कर्मकार नहीं था। प्रार्थी को स्टॉप गैप अरेन्जमेंट के अंतर्गत श्री उमराव शाह द्वारा अपनी जिम्मेदारी पर

अवकाश अवधि के लिए लगाये जाने के कारण रखा गया। श्री उमराव शाह ने प्रार्थी को दिनांक 30.09.91 से 7.11.91 तक तथा उसके बाद दिनांक 31.07.92 तक एवजी के रूप में रखवाया। प्रार्थी को अवकाश अवधि के लिए रखवाकर श्री उमराव शाह अवकाश अवधि के बाद भी अनुपस्थित रहकर दिनांक 07.11.91 को अवकाश से वापस लौटे। एवजी की यह व्यवस्था नियमित ईडीएमसी, परिता की विभागीय नियमों के अनुसार नियमित नियुक्ति के उपरान्त समाप्त कर दी गई।

10. प्रस्तर 3 में यह कथन है कि सही तथ्य यह है कि श्री उमराव शाह, ईडीएमसी, परिता दिनांक 01.08.1991 से अवकाश पर गये और अपनी जिम्मेदारी पर उन्होंने प्रार्थी श्री छोटे लाल को अपनी जगह अवकाश की अवधि में एवजी के रूप में कार्य करने हेतु मौका प्रस्तुत किया और श्री छोटे लाल को ईडीएमसी परिता के रूप में दिनांक 30.08.1991 से एवजी के रूप में रखा गया। श्री छोटे लाल एवजी के रूप में पोस्ट एण्ड टेलिग्राफ E.D.A. (Conduct and Service Rule, 1961) के अधीन एवजी के रूप में रखे गये। उक्त नियम वादोत्तर के साथ आर-2 के रूप में संलग्न है। आगे यह कथन है कि श्री उमराव शाह, अवकाश पर अनाधिकृत रूप से अनुपस्थित रहे जिसके परिणामस्वरूप उन्हें सेवा मुक्त कर दिया गया। आगे यह कहा गया है कि श्री छोटे लाल एवजी के रूप में दिनांक 31.07.1992 तक सेवारत रहे। ईडीएमसी, परिता की नियुक्ति की प्रक्रिया प्रारंभ की गयी और अंततः श्री मुरारी लाल शर्मा चयनित हुए जिन्हें ईडीएमसी, परिता के रूप में दिनांक 06.11.1993 को नियुक्त किया गया।

11. आगे वादोत्तर के प्रस्तर 4 में यह कहा गया है कि आवेदक औद्योगिक विवाद अधिनियम, 1947 में परिभाषित कर्मकार नहीं है और राजस्थान औद्योगिक विवाद नियम, 1958 के नियम 77 व 78 लागू नहीं होते हैं। प्रार्थी स्टॉप गैप अरेन्जमेंट में रखा गया था और यह अस्थायी व्यवस्था इस संबंध में विभाग के नियम के अनुसार समाप्त कर दी गयी। यह भी कहा गया है कि प्रार्थी E.D.A. Service and conduct Rules 1964 के अंतर्गत एवजी के रूप में रखा गया था जिसमें नोटिस दिये जाने का कोई प्रावधान नहीं है। प्रार्थी के मामले में धारा 25 औद्योगिक विवाद अधिनियम का प्राविधान लागू नहीं होता है क्योंकि वह एक नियमित कर्मचारी द्वारा अपनी जिम्मेदारी पर एवजी के रूप में लगाया गया था तथा विभाग द्वारा नियुक्त नहीं किया गया था और जब नियमित ईडीएमसी की नियुक्ति हो गई तो एवजी के रूप में प्रार्थी की सेवा स्वतः समाप्त हो गयी। यह भी कहा गया है कि इस मामले में नियमित नियुक्त ईडीएमसी श्री उमराव शाह सेवा से अनुपस्थित रहे जिसके परिणामस्वरूप निर्धारित प्रक्रिया अपना कर उसे सेवा से हटा दिया गया और इस प्रकार नियमित ईडीएमसी द्वारा लगायी गयी एवजी ईडीएमसी की सेवा भी समाप्त कर दी गयी।

12. प्रार्थी एवजी के रूप में नियमित ईडीएमसी की अनुपस्थिति में काम किया है अतः प्रार्थी एवजी की सेवा समाप्ति के मामले में औद्योगिक विवाद अधिनियम की धारा 2 (ओओ) (बीबी) का प्राविधान आकर्षित होता है तथा प्रार्थी की सेवा समाप्ति को छंटनी नहीं कहा जा सकता है क्योंकि धारा 25 एफ का कोई उल्लंघन नहीं है। प्रार्थी के मामले में औद्योगिक विवाद अधिनियम का प्राविधान लागू नहीं होता है।

13. यह भी कहा गया है कि केन्द्रीय प्रशासनिक अधिकरण, जयपुर ने गुणावगुण के आधार पर प्रार्थी की आवेदन निर्णित की है और माननीय उच्च न्यायालय ने भी प्रार्थी की रिट याचिका का निस्तारण किया है अतः प्रार्थी को विधि के अनुसार सक्षम न्यायालय में अपना मामला उठाना चाहिए।

14. पैरा 10 में कथन है कि आवेदक एवजी के रूप में नियमित ईडीए द्वारा लगाया गया था और जब नियमित ईडीए लम्बे समय तक अनुपस्थित रहे तो उन्हें निर्धारित कानूनी प्रक्रिया अपनाकर सेवा से हटाया गया और नियमित एवं नये ईडीए की नियुक्ति नियमानुसार की गयी। नव नियुक्त व्यक्ति ईडीए परिता के रूप में काम करने के लिए बाध्य था एवं उक्त स्थिति में आवेदक को कोई नोटिस देने का प्रश्न नहीं उठता। प्रार्थी की आवेदन केन्द्रीय प्रशासनिक अधिकरण, जयपुर द्वारा सारे बिन्दुओं पर विचारण के बाद दिनांक 24.11.2000 को खारिज की गयी और माननीय उच्च न्यायालय, जयपुर में प्रस्तुत की गयी याचिका भी दिनांक 17.2.2001 को निरस्त कर दी गयी। प्रार्थी E.D.A. (Conduct & Service Rules 1961) के अनुसार किसी भी अनुतोष का हकदार नहीं है क्योंकि वह नियमित कर्मचारी की जिम्मेदारी पर उसके एवजी के रूप में उसी द्वारा लगाया गया था। यह भी कहा गया है कि इस तथ्य का उल्लेख महत्वपूर्ण है कि सीजीआईटी जयपुर के केस नं. 10/96 राजेन्द्र सिंह बनाम एस.एस.पी.ओ. अलवर एवं अन्य में दिनांक 29.1.98 को पारित अवार्ड में यह अवधारित किया गया है कि आवेदक ने नियमित कर्मचारी के अवकाश पर जाने पर एवजी के रूप में कार्य किया और ऐसा एवजी कर्मचारी का मामला आद्यौगिक विवाद अधिनियम, 1947 के अधीन नहीं आता है और ऐसा एवजी कर्मचारी किसी अनुतोष का हकदार नहीं है क्योंकि ऐसा एवजी कर्मचारी का मामला औद्योगिक विवाद अधिनियम की धारा 2 (ओओ) (बीबी) के अंतर्गत आता है। श्री छोटी लाल कामालम राजेन्द्र सिंह बनाम एस.एस.पी.ओ. अलवर के मामले से पूर्ण रूप से आच्छादित है। सीजीआईटी केस नं. 10/96 राजेन्द्र सिंह बनाम एस.एस.पी.ओ., अलवर एवं अन्य के मामले से संबंधित निर्णय की प्रतिलिपि आर-3 वादोत्तर के साथ संलग्न है, अंतः प्रार्थना की गयी है कि प्रार्थी की याचिका निरस्त की जाय और मंत्रालय द्वारा प्रेषित संदर्भ (रेफरेन्स) का जवाब नकारात्मक रूप में दिया जाए। यह भी कहा गया है कि प्रार्थी किसी भी प्रकार का अनुतोष पाने का हकदार नहीं है।

15. प्रार्थी की तरफ से जबाबुलजबाब प्रस्तुत कर बादोत्तर के प्रस्तर 1, 2, 3, 4, 5, 6, 8, 10, 12 और 13 का अस्वीकार किया गया है प्रस्तर 7 और 9 के संबंध में कहा गया है कि जवाब देने की आवश्यकता नहीं है। प्रस्तर 11 के कथन को स्वीकार किया गया है और अतिरिक्त कथन में यह कहा गया है कि प्रार्थी कभी भी स्टॉप गैप अरेन्जमेंट पर नहीं रखा गया बल्कि श्री उमराव शाह, ई.डी.एम.सी. परिता के अवकाश पर चले जाने के फलस्वरूप दिनांक 30.8.91 से प्रार्थी को मौखिक नियुक्ति देकर उसे ई.डी.एम.सी. के पद पर रखा गया। प्रार्थी ने दिनांक 30.08.1991 से दिनांक 7.11.1991 तक लगातार कार्य किया। दिनांक 8.11.91 को श्री उमराव शाह, ई.डी.एम.सी. आए थे किन्तु उन्होंने कार्यभार ग्रहण नहीं किया और प्रार्थी निरंतर पहले की तरह कार्य करता रहा। प्रार्थी ने दिनांक 30.08.1991 से 7.11.91 तक एवं 8.11.91 से 31.7.92 तक बिना

किसी शिकयात के ई.डी.एम.सी. के पद पर कार्य किया। दिनांक 8.11.91 को श्री उमराव शाह, आए किन्तु कार्यभार ग्रहण नहीं किया और वापस चले गए। प्राथी श्रमिक ने इस संबंध में निरीक्षक, मुख्य डाकघर, हिंडोन सिटी, को बताया तो उन्होंने कहा कि आप लगातार कार्य करते रहे हैं इसलिए दो बार किसी नियुक्ति पत्र की आवश्यकता नहीं है, इस प्रकार प्राथी निश्चित होकर दिनांक 31.7.92 तक निरन्तर कार्य करता रहा और इस संपूर्ण सेवा अवधि का पूर्ण वेतन, बोनस सहित प्राथी को भुगतान किया गया। विपक्ष द्वारा औद्योगिक विवाद अधिनियम के प्राविधान एवं राजस्थान औद्योगिक विवाद नियम 77 व 78 का पालन नहीं किया गया। प्राथी को छंटनी से पूर्व किसी प्रकार की नोटिस नहीं दी गयी और न ही नोटिस के बदले वेतन का भुगतान किया गया। श्री उमराव शाह, द्वारा कार्यभार ग्रहण न करने के परिणामस्वरूप प्राथी को ई.डी.एम.सी. के पद पर निरन्तर कार्यरत रहने के लिए कहा गया। माननीय उच्च न्यायालय ने प्राथी की रिट याचिका खारिज नहीं की बल्कि सक्षम प्राधिकारी के समक्ष अपना मामला उठाने के लिए प्राथी को निर्देश दिया।

16. प्राथी श्रमिक द्वारा एक कैलेंडर वर्ष में 240 दिन से अधिक कार्य करने के कारण प्राथी औद्योगिक कर्मकार हो गया तथा अप्राथी संस्था पर औद्योगिक विवाद अधिनियम के प्राविधान लागू होते हैं जिसका प्राथी ने उल्लंघन नहीं किया, अतः वादोत्तर खारिज किया जाए और प्राथी का क्लेम स्वीकार कर सेवामुक्ति ओदश दिनांक 31.7.92 निरस्त कर समस्त लाभ सहित प्राथी को पुनः सेवा में स्थापित किया जाए।

17. दिनांक 18.7.2003 को उभयपक्ष के अभिवचनों के आधार पर तत्कालीन विद्वान पीठासीन अधिकारी ने निम्न वाद बिन्दु विरचित किए गये:—

- (1) Whether the workman was appointed by the non-applicant management to the post of EDMC on 30-8-91, who continuously worked up to 31-7-92 and whose service was terminated in violation of the provision under Section 25-F of the ID Act?
- (2) Whether the non-applicant management after the termination of the service of the workman has made fresh appointments of the employees in violation of the provision under Section 25-H of the ID Act?
- (3) Whether the Postal Department does not fall within the definition of the 'industry' under the provision of the ID Act?
- (4) Whether the applicant — workman is not covered within the definition of the 'workman' under the provision of the ID Act?
- (5) Relief, if any.

18. मौखिक साक्ष्य में याची पक्ष की तरफ से श्री छोटे लाल प्राथी की शपथ-पत्र दिनांक 23.12.2014 को प्रस्तुत की गयी तथा विपक्ष द्वारा उनकी प्रतिपरीक्षा दिनांक 13.1.2015 को की गयी। विपक्ष की तरफ से श्री गजानन्द जोगी, अधीक्षक, डाकघर की शपथ-पत्र दिनांक

15.1.2015 को प्रस्तुत की गयी तथा प्राथी पक्ष द्वारा इनकी प्रतिपरीक्षा दिनांक 10.2.2015 को की गयी।

19. याची पक्ष द्वारा प्रलेखीय साक्ष्य के रूप में सूची के साथ दिनांक 18.7.2003 को फिहरिस्त के साथ अभिलेख Aw-1 लगायत Aw-10 प्रस्तुत किया गया है जिसमें श्री उमराव शाह की अवकाश आवेदन, चार्ज की बदली पर चार्ज की रिपोर्ट और नकदी और टिकटों की रसीद की फोटोप्रति, श्री छोटे लाल छीपी के विद्वान अधिवक्ता द्वारा डाक विभाग को भेजी गई नोटिसों की फोटोप्रतियां तथा अन्य अभिलेख शामिल हैं। प्रलेखीय साक्ष्य के रूप में विपक्ष की तरफ से वादोत्तर के साथ माननीय सर्वोच्च न्यायालय के समक्ष सिविल अपील संख्या 3585-86/96 सब-डिविजनल इन्स्पेक्टर और पोस्ट वैकम एवं अन्य अपीलार्थीगण बनाम थेयम जोसफ एवं अन्य ... प्रत्यर्थीगण, में निर्णय दिनांक 2.2.96 की प्रतिलिपि की फोटोप्रति R-1, E.D.A. Conduct & Service Rules 1964 से संबन्धित पुस्तक की पृष्ठ 34 की फोटोप्रति R-2 प्रस्तुत है। विपक्ष द्वारा वादोत्तर के प्रस्तर 13 में अंकित अभिलेख R-3 (वाद संख्या 10/96, राजेन्द्र सिंह बनाम एस०एस०पी०ओ०, के निर्णय दिनांक 29.1.98 की प्रतिलिपि) नहीं प्रस्तुत है। कोई अन्य प्रलेखीय साक्ष्य पक्षकारों की तरफ से पत्रावली पर नहीं प्रस्तुत है।

20. याची पक्ष की तरफ से अपने समर्थन में निम्न विधिक दृष्टान्त प्रस्तुत किये गये हैं:—

(1) 1984(48) F.L.R. Page-310, S.C. (F.B.) गैमन इन्डिया लिमिटेड – अपीलार्थी बनाम निरन्जनदास – प्रत्यर्थी

(2) 1991(2) R.L.R. Page-158, (JAIPUR BENCH) ओरियन्टल बैंक आफ कामर्स – याची बनाम प्रिसाइडिंग आफिसर, सी०जी०आई०टी० एवं 23 अन्य – प्रत्यर्थीगण

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(4) 1991(1) L.L.J. (Suppl.) Page-848, गुजरात राज्य मशीन टूल कारपोरेशन लिमिटेड-अपीलार्थी बनाम दीपक जे० देसाई – प्रत्यर्थी

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21. मैंने चाची के विद्वान प्रतिनिधि श्री ऋषभ जैन तथा विपक्ष की तरफ से उनके विद्वान प्रतिनिधि श्री ब्रह्मानन्द सन्धु, एडवोकेट की बहस सुनी तथा पत्रावली का सम्यक् अवलोकन किया।

22. श्री छोटे लाल छीपी के विद्वान प्रतिनिधि द्वारा यह बहस प्रस्तुत की गयी है कि प्रार्थी की डाक विभाग द्वारा ई०डी०एम०सी० के पद पर दिनांक 30.08.1991 को नियुक्ति की गई और प्रार्थी ने दिनांक 31.7.1992 तक निर्बाध रूप से डाक विभाग के अधीन उक्त पद पर कार्य किया और बिना कोई कारण बताये और बिना नोटिस दिये अथवा नोटिस के एवज में किसी भी प्रकार का भुगतान किये एवं किसी प्रकार की क्षतिपूर्ति अदायगी किये बिना बतौर छंटनी दिनांक 1.8.1992 को प्रार्थी की सेवा समाप्त कर दी। यह बहस भी की गयी है कि प्रार्थी ने एक कलेण्डर वर्ष में 240 दिन से अधिक कार्य किया है इसलिये प्रार्थी की सेवा समाप्ति

बतौर छंटनी धारा 25 एफ एवं धारा 25 बी तथा धारा 25 एच औद्योगिक विवाद अधिनियम, 1947 के प्राविधान के उल्लंघन में की गयी है। यह बहस भी की गयी है कि प्रार्थी नियमित सेवा का लाभ न प्राप्त कर ले इसलिये बदनियती से उसकी सेवा समाप्त की गयी है अतः प्रार्थी के विरुद्ध सेवा समाप्ति का आदेश निरस्त कर समस्त लाभ सहित प्रार्थी को सेवा में पुनर्स्थापित किया जाय।

23. विपक्ष के विद्वान अधिवक्ता की तरफ से यह बहस की गयी है कि प्रार्थी श्री छोटे लाल छीपी को डाक विभाग द्वारा कभी कोई नियुक्ति प्रदान नहीं की गयी अतः उसकी सेवा समाप्त करने का प्रश्न नहीं उठता। यह बहस भी की गयी है कि डाक विभाग 'उद्योग' की परिभाषा से और 'प्रार्थी कर्मकार' की परिभाषा से आच्छादित नहीं है इसलिये औद्योगिक विवाद अधिनियम, 1947 के प्राविधान प्रार्थी के सन्दर्भ में लागू नहीं होते हैं। यह बहस भी की गयी कि प्रार्थी को एवजी के रूप में श्री उमराव शाह, ई०डी०एम०सी० परितो की जगह उनके अवकाश पर होने पर केवल अवकाश अवधि के लिये रखा गया था और श्री उमराव शाह ने ही अपनी जिम्मेदारी पर अवकाश अवधि के लिए श्री छोटे लाल छीपी को रखवाया था। यह भी कहा गया है कि श्री उमराव शाह दिनांक 01.08.1991 से दिनांक 7.11.1991 तक अवकाश पर जाने के उद्देश्य से अवकाश अवधि के लिए रखवाये थे लेकिन अवकाश के दौरान दिनांक 7.11.1991 से दिनांक 31.7.1992 तक अनुपस्थित रहे जिसके कारण एवजी के रूप में श्री छोटे लाल छीपी को दिनांक 31.7.1992 तक रखा गया और नियमित नियुक्ति के उपरान्त एवजी के रूप में प्रार्थी की सेवा समाप्त कर दी गयी। यह बहस भी की गयी है कि श्री उमराव शाह दिनांक 1.08.1991 से अवकाश पर गये थे परन्तु श्री छोटे लाल छीपी को बतौर एवजी दिनांक 30.08.1991 से रखा गया था। विपक्षी की उक्त बहस के विरुद्ध प्रार्थी पक्ष द्वारा यह बहस की गयी है कि श्री उमराव शाह दिनांक 01.08.1991 को अवकाश पर चले गये थे और श्री छोटे लाल छीपी को डाक विभाग ने दिनांक 30.08.1991 से सेवा में रखा था इसलिये डाक विभाग का कहना गलत है कि श्री छोटे लाल छीपी को एवजी के रूप में रखा गया था बल्कि उसकी डाक विभाग ने नई नियुक्ति दिनांक 30.08.1991 को की थी, यदि एवजी के रूप में प्रार्थी नियुक्त हुआ होता तो वह सेवा में दिनांक 1.08.1991 को रखा गया होता जिस दिन श्री उमराव शाह अवकाश पर गये।

24. उभयपक्ष द्वारा प्रस्तुत उक्त बहस के सन्दर्भ में पक्षकारों द्वारा प्रस्तुत साक्ष्य की समीक्षा वाद बिन्दुओं के निस्तारण के सन्दर्भ में की जानी आवश्यक है।

निस्तारण वाद बिन्दु

25. न्यायाधिकरण द्वारा दिनांक 18.7.2003 को कुल पांच वाद-बिन्दु सृजित किये गये हैं जिनका उल्लेख उपर किया गया है। इन पांच वाद-बिन्दुओं में वाद-बिन्दु संख्या तीन एवं चार प्रारम्भिक वाद-बिन्दु हैं जिनका निष्कर्ष अन्य वाद-बिन्दुओं के निस्तारण में महत्वपूर्ण होंगे अतः वाद-बिन्दु तीन एवं चार को निस्तारण हेतु पहले ग्रहण किया जा रहा है।

निस्तारण वाद बिन्दु संख्या - 3

26. यह वाद बिन्दु इस आशय का है कि क्या डाक विभाग औद्योगिक विवाद अधिनियम 1947 की धारा 2(J) में परिभाषित "उद्योग" की

परिभाषा से आच्छादित नहीं है? विपक्षी डाक विभाग के विद्वान अधिवक्ता की तरफ से यह बहस की गयी है कि डाक विभाग “उद्योग” की परिभाषा से आच्छादित नहीं है और इसका उल्लेख वादोत्तर के प्रस्तर 1 में किया गया है। विपक्ष की तरफ से यह बहस भी की गयी है कि औद्योगिक विवाद अधिनियम 1947 के प्राविधान वर्तमान मामले में लागू नहीं होते हैं, विपक्ष द्वारा अपने समर्थन में माननीय सर्वोच्च न्यायालय द्वारा सिविल अपील संख्या 3385-86/1996, सब डिविजनल इन्स्पेक्टर, पोस्ट ऑफिस, बैयकम एवं अन्य बनाम द थियाम जोसफ एवं अन्य में पारित निर्णय दिनांक 2.2.96 की फोटोप्रति आर/1 प्रस्तुत की गयी है। इसके विरुद्ध प्रार्थी पक्ष के विद्वान प्रतिनिधि ने यह बहस की है कि डाक विभाग “उद्योग” की परिभाषा से आच्छादित है और अपने कथन के समर्थन में दृष्टान्त 1998 I.L.L.J. S.C. Page-57 (F.B.) . जनरल मैनेजर, दूरसंचार अपीलार्थी ... बनाम.... श्री निवास राव एवं अन्य - प्रत्यर्थी का दृष्टान्त प्रस्तुत किया है।

27. मैंने उक्त दोनों दृष्टान्तों का वर्तमान मामले के तथ्य एवं परिस्थितियों के परिपेक्ष्य में सम्यक् अवलोकन किया। सब डिविजनल इन्स्पेक्टर आफ पोस्ट, बैयकम एवं अन्य - अपीलार्थी बनाम द थियाम जोसफ एवं अन्य प्रत्यर्थीगण, में माननीय सर्वोच्च न्यायालय ने निर्णय के पृष्ठ 4 पर यह अभिनिर्धारित किया है कि अपीलार्थी डाक विभाग “उद्योग” नहीं है। जनरल मैनेजर टेलिकाम बनाम श्री निवास राव एस० एवं अन्य में माननीय सर्वोच्च न्यायालय के समक्ष यह प्रश्न विचारणीय था कि टेलिकम्यूनिकेशन विभाग “उद्योग” की परिभाषा से आच्छादित है या नहीं, माननीय सर्वोच्च न्यायालय की पूर्ण पीठ ने निर्णय के प्रस्तर 5 में यह अवधारित किया है कि सब डिविजनल इन्स्पेक्टर आफ पोस्ट बनाम द थियाम जोसफ एवं अन्य में “उद्योग” के सम्बन्ध में अभिनिर्धारित व्यवस्था कानून की सही स्थिति नहीं दर्शाती अर्थात् डाक विभाग “उद्योग” की परिभाषा से आच्छादित है। टेलिकाम विभाग के सम्बन्ध में भी पूर्ण पीठ ने “उद्योग” की परिभाषा से आच्छादित होने की अवधारणा व्यक्त की। उक्त व्याख्या व विश्लेषण के आधार पर मैं इस निष्कर्ष पर हूँ कि डाक विभाग “उद्योग” की परिभाषा से आच्छादित है। वाद बिन्दू संख्या 3 तदनुसार विपक्ष के विरुद्ध नकारात्मक निर्णित किया जाता है।

निस्तारण वाद बिन्दु संख्या - 4

28. यह वाद बिन्दु इस आशय का है कि क्या आवेदक श्री छोटे लाल छीपी औद्योगिक विवाद अधिनियम 1947 के अन्तर्गत परिभाषित “कर्मकार” की परिभाषा से आच्छादित नहीं है? विपक्षी के विद्वान अधिवक्ता की तरफ से यह बहस की गयी है कि प्रार्थी श्री छोटे लाल छीपी “कर्मकार” की परिभाषा से आच्छादित नहीं है और प्रार्थी श्री छोटे लाल छीपी का मामला सब डिविजनल इन्स्पेक्टर आफ पोस्ट बनाम द थियाम जोसफ एवं अन्य, के मामले से भिन्न नहीं है जिसमें माननीय सर्वोच्च न्यायालय ने यह अवधारित किया है कि प्रार्थी कर्मकार नहीं है और औद्योगिक विवाद अधिनियम 1947 के प्राविधान वर्तमान मामले में लागू नहीं होते हैं। इसके विरुद्ध प्रार्थी कर्मकार के विद्वान प्रतिनिधि की तरफ से यह बहस भी की गयी है कि सब डिविजनल इन्स्पेक्टर आफ पोस्ट बनाम द थियाम जोसफ एवं अन्य के निष्कर्ष को जनरल मैनेजर टेलिकाम बनाम श्री निवास राव एस० एवं अन्य के मामले में निरस्त

किया गया है। इसके विरुद्ध विपक्ष के विद्वान अधिवक्ता की तरफ से यह बहस की गयी है कि जनरल मैनेजर टेलिकाम बनाम श्री निवास राव एस० एवं अन्य के मामले में सर्वोच्च न्यायालय द्वारा प्रार्थी के “कर्मकार” होने या न होने सम्बन्ध में जो व्यवस्था दी गयी है उसे विस्थापित (Displace) नहीं किया गया है केवल “उद्योग” की परिभाषा से आच्छादित होने या न होने के सम्बन्ध में यह व्यवस्था दी गई है कि सब डिविजनल इन्स्पेक्टर ऑफ पोस्ट बनाम द थियाम जोसफ एवं अन्य में “उद्योग” के सम्बन्ध में दी गई व्यवस्था कानून की सही स्थिति का निरूपण नहीं करती है।

29. मैंने उभयपक्ष के उक्त बहस के सम्बन्ध में दोनों ही दृष्टान्तों का सम्यक् एवं सूक्ष्म अवलोकन किया। जनरल मैनेजर टेलिकाम बनाम श्री निवास राव एस०... के सम्यक् अवलोकन से यह जाहिर है कि इस मामले में विशुद्ध रूप से टेलिकाम विभाग के “उद्योग” की परिभाषा से आच्छादित होने या न होने का मामला विचाराधीन था जैसा कि औद्योगिक विवाद अधिनियम 1947 की धारा 2(J) में परिभाषित है। सब डिविजनल इन्स्पेक्टर आफ पोस्ट.... बनाम द थियाम जोसफ एवं अन्य के मामले के सूक्ष्म अवलोकन से यह जाहिर है कि प्रत्यर्थी के कर्मकार होने अथवा न होने का मामला भी विचाराधीन था और न्यायाधिकरण ने यह अवधारित किया था कि डाक विभाग “उद्योग” की परिभाषा से आच्छादित है और प्रत्यर्थी कर्मकार की परिभाषा से आच्छादित है और औद्योगिक विवाद अधिनियम 1947 के प्राविधान लागू होते हैं माननीय सर्वोच्च न्यायालय के निर्णय के पृष्ठ 8 पर यह उल्लेख है, ".....It would thus be seen that the method of recruitment, the conditions of service, the scale of pay and the conduct rules regulating the service conditions of ED Agents are governed by the statutory regulation. It is now settled law of this Court that these employees are civil servants regulated by these conducts rules. Therefore, by necessary implication, they do not belong to the category of workmen attracting the provision of the Act. The approach adopted by the tribunal, therefore, is clearly illegal." उक्त स्थिति से यह स्पष्ट है कि माननीय सर्वोच्च न्यायालय ने यह अवधारित किया है कि प्रत्यर्थी/थियाम जोसफ “कर्मकार” की परिभाषा से आच्छादित नहीं है और औद्योगिक विवाद अधिनियम 1947 के प्राविधान लागू नहीं होते हैं। इस प्रकार प्रत्यर्थी को “कर्मकार” होने या न होने के सम्बन्ध में डिविजनल इन्स्पेक्टर ऑफ पोस्ट बनाम द थियाम जोसफ एवं अन्य में दी गयी व्यवस्था जनरल मैनेजर टेलिकाम बनाम श्री निवास राव एस० एवं अन्य में दी गयी व्यवस्था से विस्थापित नहीं है क्योंकि जनरल मैनेजर टेलिकाम वाले मामले में केवल “उद्योग” की परिभाषा से आच्छादन का मामला विचाराधीन था। श्री छोटे लाल छीपी का मामला थियाम जोसफ के मामले से भिन्न नहीं है, अतः मैं इस निष्कर्ष पर हूँ कि श्री छोटे लाल छीपी “कर्मकार” की परिभाषा से आच्छादित नहीं है और औद्योगिक विवाद अधिनियम 1947 के प्राविधान प्रार्थी के मामले में लागू नहीं होते हैं। वाद-बिन्दु संख्या 4 तदनुसार प्रार्थी के विरुद्ध सकारात्मक निर्णित किया जाता है।

निस्तारण वाद बिन्दु संख्या - 1

30. यह वाद बिन्दु इस आशय का है कि क्या कर्मकार श्री छोटे लाल छीपी को दिनांक 30.08.1991 को विपक्षी प्रबन्धन द्वारा ई०डी०एम०सी०

के पद पर नियुक्त किया गया था, जिसने लगातार 31.07.1992 तक कार्य किया और जिसकी सेवाएं औद्योगिक विवाद अधिनियम 1947 की धारा 25 एफ के प्राविधान के उल्लंघन में समाप्त कर दी गयी।

31. जहां तक प्रबन्धन द्वारा प्रार्थी कर्मकार को दिनांक 30.08.1991 को ईंडीएमसी के पद पर नियुक्त किये जाने का प्रश्न है, इस तथ्य को सिद्ध करने का भार प्रार्थी पक्ष पर है क्योंकि विपक्ष द्वारा प्रार्थी को नियुक्त किये जाने से इन्कार किया गया है और यह कहा गया है कि श्री उमराव शाह ने श्री छोटे लाल छीपी को अपनी जिम्मेदारी पर अवकाश पर जाते समय केवल अवकाश की अवधि हेतु लगाया था। विपक्ष की तरफ से पत्रावली पर उपलब्ध अभिलेख Ex. M-1 का सहारा यह दर्शाने के लिए लिया गया है कि श्री उमराव शाह ने श्री छोटे लाल छीपी को अपनी अवकाश स्वीकृत कराने के लिए डाक विभाग निरीक्षक के समक्ष प्रार्थना-पत्र Ex. M-1 प्रस्तुत किया। प्रार्थी पक्ष द्वारा प्रस्तुत अभिलेख Ex. M-1 में निम्न उल्लेख है:—

सेवा में

श्रीमान निरीक्षक महोदय
डाक विभाग उप खंड
हिन्डौन सिटी

विषय दि० 1 अगस्त 1991 से 30.9.91 तक का अवकाश स्वीकृत करने के क्रम में

श्रीमान जी,

उपरोक्त विषयान्तर्गत नम्र निवेदन है कि प्रार्थी घरेलू परिस्थिति के कारण डाक कार्य करने में असमर्थ हूं। इसलिए मेरे स्थान पर श्री छोटे लाल छीपी डाक कार्य करेंगे।

अतः श्रीमान जी से निवेदन है कि प्रार्थी का अवकाश स्वीकृत करने की कृपा करें।

आपका

1.8.91

छोटे लाल छीपी

(हस्ताक्षर पठनीय)

उमराव शाह (हस्ताक्षर पठनीय)

ईंडीएमसी परीता

32. प्रार्थी श्री छोटे लाल छीपी ने साक्ष्य में प्रस्तुत शपथ-पत्र में यह कहा है कि उसकी प्रथम नियुक्ति शाखा डाक घर परिता में दिनांक 30.08.1991 को ईंडीएमसी के पद पर हुई थी और दिनांक 31.07.1992 तक उसने निरन्तर कार्य किया और यह कहना पूर्णतया असत्य है कि ईंडीएमसी के पद पर उसकी नियुक्ति में निर्धारित प्रक्रिया का अनुसरण नहीं किया गया था क्योंकि ईंडीएमसी के पद पर नियुक्ति हेतु कोई प्रक्रिया निर्धारित नहीं थी परन्तु प्रतिपरीक्षा के पृष्ठ तीन पर स्वीकार किया है कि इस पद पर नियुक्ति की प्रक्रिया की उसे जानकारी नहीं है। प्रार्थी ने प्रतिपरीक्षा में इस सुझाव से इन्कार किया है कि उसने उमराव शाह की जगह केवल उनकी छुट्टी की अवधि के लिए कार्य किया है। आगे शपथ-पत्र में प्रार्थी/साक्षी ने कहा है कि उसे दिनांक 1.08.1992 को सेवामुक्त कर दिया गया। प्रतिपरीक्षा में प्रार्थी ने यह स्वीकार किया है कि उसे विभाग से कोई नियुक्ति पत्र अथवा सेवा से

हटाने का पत्र नहीं मिला था तथा उसे श्री जगदीश चन्द्र सैनी, इन्स्पेक्टर पोस्ट ऑफिस में लगाया था और कहा था कि वह प्रार्थी को स्थायी कर देंगे लेकिन लिखित में कोई पत्र उन्होंने नहीं दिया था। श्री उमराव शाह के सम्बन्ध में साक्षी ने यह कहा है कि श्री उमराव शाह नाम के व्यक्ति को साक्षी जानता है। साक्षी से पहले उसकी जगह श्री उमराव शाह काम करते थे और श्री उमराव शाह को साक्षी इसी वजह से जानता है कि वह इस साक्षी से पहले काम करते थे। प्रतिपरीक्षा के दौरान साक्षी के समक्ष उपरोक्त अंकित Ex. M-1/Aw-1 श्री छोटे लाल छीपी को दर्शाया गया जिसको पढ़कर साक्षी ने यह स्वीकार किया है कि इस पर अंकित इबारत सही है। Ex. M-1 पर साक्षी ने अपने हस्ताक्षर की पहचान की है। साक्षी से जब यह प्रश्न किया गया कि उसे श्री उमराव शाह की जगह केवल श्री उमराव शाह की अवकाश अवधि के लिए कार्य पर रखा गया था, इस सम्बन्ध में साक्षी को क्या कहना है तो उसने यह उल्लेख किया है कि उसने दिनांक 30.08.1991 से दिनांक 31.07.1992 तक डाक विभाग का कार्य किया। श्री जगदीश चन्द्र सैनी, इन्स्पेक्टर साहब ने उसे गलत आवेदन लिखवाई। यह भी कहा है कि एक-दो दिन छुट्टी की जगह काम करवाया जाता है, लम्बी अवधि तक छुट्टी की जगह काम थोड़े ही करवाया जाता है। प्रार्थी की मुख्य परीक्षा और प्रतिपरीक्षा के उक्त कथन एवं Ex. M-1 उपरोक्त के अवलोकन से यह भलीभांति स्पष्ट है कि प्रार्थी की डाक विभाग में प्रविष्टि श्री उमराव शाह की जगह उनके अवकाश पर जाने के परिणामस्वरूप हुई। डाक विभाग के श्री जगदीश चन्द्र सैनी, इन्स्पेक्टर द्वारा प्रार्थी से कोई गलत आवेदन लिखवाई गई, इसका उल्लेख प्रार्थी की याचिका अथवा शपथ-पत्र में नहीं है और Ex. M-1 पर प्रार्थी को धोखे में रख कर हस्ताक्षर करवाये गये, इस बात का भी कोई साक्ष्य नहीं है। पत्रावली पर इस बात का भी कोई साक्ष्य नहीं है। कि श्री उमराव शाह के अवकाश पर जाने के समय के अतिरिक्त किसी अन्य समय पर प्रार्थी की नियुक्ति के सम्बन्ध में कोई अलग प्रक्रिया अपनाकर उसे डाक विभाग में रखा गया। जहां तक विपक्षी साक्षी श्री गजानन्द जोगी, डाक अधिक्षक के साक्ष्य से प्रार्थी के पक्ष में किसी समर्थन का प्रश्न है अपने शपथ-पत्र में श्री गजानन्द जोगी ने यह उल्लेख किया है कि श्री छोटे लाल छीपी को डाक विभाग द्वारा कभी ईंडीएमसी के पद पर नियुक्ति नहीं दी गई और न ही किसी सक्षम अधिकारी द्वारा कोई नियुक्ति आदेश इस सम्बन्ध में जारी किया गया। आगे शपथ-पत्र में साक्षी ने यह कहा है कि श्री उमराव शाह के अवकाश पर होने के कारण विभागीय नियम के अनुसार श्री उमराव शाह ईंडीएमसी द्वारा ही अपनी जोखिम एवं जिम्मेदारी पर एवजी के रूप में श्री छोटे लाल छीपी को स्टाप गैप अरेन्जमेन्ट के अन्तर्गत कार्य पर लगवाया गया था जिसके विभाग किसी तरह से उत्तरदायी नहीं है। ईंडीएमसी की नियुक्ति के सम्बन्ध में साक्षी ने शपथ-पत्र के प्रस्तर 4 में कहा है कि केन्द्र सरकार द्वारा डाक विभाग में ईंडीएमसी के पद पर नियुक्ति हेतु निश्चित प्रक्रिया निर्धारित है जिसके अनुसार ही ईंडीएमसी की नियुक्ति की जाती है और प्रार्थी श्री छोटे लाल छीपी के मामले में ऐसी किसी प्रक्रिया का अनुसरण नहीं हुआ था। श्री गजानन्द जोगी की प्रार्थी पक्ष द्वारा लम्बी प्रतिपरीक्षा की गयी है। पूरी प्रतिपरीक्षा के एकीकृत अवलोकन से ऐसे किसी निष्कर्ष के लिए आधार नहीं बनता है कि प्रार्थी श्री छोटे लाल छीपी को डाक विभाग ने ईंडीएमसी के पद पर नियुक्त किया था। प्रतिपरीक्षा का अधिकांश भाग इस बिन्दु से सम्बन्धित है कि

श्री उमराव शाह कितनी बार छुट्टी गये और कब वापस लौटे और वापसी पर उन्होंने कब कार्य भार ग्रहण किया, जिन बिन्दुओं का वास्तव में श्री छोटे लाल छीपी की डाक विभाग से स्वतन्त्र नियुक्ति से कोई तालमेल नहीं बनता। उक्त व्याख्या व विश्लेषण तथा Ex. M-1 के आधार पर मैं इस निष्कर्ष पर हूँ कि प्रार्थी पक्ष इस तथ्य को सिद्ध करने में असफल है कि श्री छोटे लाल छीपी को दिनांक 30.08.1991 को डाक विभाग ने ई.डी.एम.सी. के पद पर नियुक्त किया। इसके विरुद्ध स्वयं प्रार्थी की तरफ से प्रस्तुत अभिलेख Aw-1/Ex-M-1 से यह साबित है श्री छोटे लाल श्री उमराव शाह की जगह कार्य करने के लिए छुट्टी की अवधि हेतु लगे थे। इस अभिलेख पर प्रार्थी की स्वीकृति के रूप में हस्ताक्षर है तथा इसके विरुद्ध प्रार्थी की तरफ से कोई विधिमान्य खण्डन नहीं है कि उक्त अभिलेख फर्जी है या उस पर उसके हस्ताक्षर धोखे में कराये गये हैं। मौखिक व प्रलेखित साक्ष्य के आवलोकन व उक्त विश्लेषण से यह निष्कर्ष भी निर्विवाद है कि श्री छोटे लाल छीपी डाक विभाग में श्री उमराव शाह के अवकाश पर जाने के कारण उनकी जगह ई.डी.एम.सी. का कार्य करने के लिए रखे गये थे एवं प्रबन्धन द्वारा उन्हें कोई नियुक्ति प्रदान नहीं की गयी थी।

33. जहाँ तक दिनांक 30.08.1991 से दिनांक 31.07.1992 तक प्रार्थी द्वारा लगातार कार्य किये जाने का प्रश्न है विपक्षी साक्षी ने प्रतिपरीक्षा के पृष्ठ 2 पर कहा है श्री उमराव शाह ने आवेदन दिनांक 01.08.1991 से अवकाश पर जाने को प्रस्तुत की थी परन्तु दिनांक 30.08.1991 को अवकाश पर गये जो दिनांक 6.11.1991 तक था और उसका विस्तार दिनांक 31.07.1992 तक रहा। वादोत्तर के प्रस्तर दो में विपक्ष ने स्वीकार किया है कि प्रार्थी छोटे लाल दिनांक 30.08.1991 से दिनांक 31.07.1992 तक श्री उमराव शाह के अवकाश के दौरान कार्य पर रहे और श्री उमराव शाह की जगह श्री छोटे लाल द्वारा कार्य करने की व्यवस्था नियमित ई.डी.एम.सी. की नियुक्ति के बाद समाप्त हो गयी। उक्त स्वीकृत तथ्य से यह साबित होता है कि श्री छोटे लाल ने दिनांक 30.08.1991 से दिनांक 31.07.1992 तक श्री उमराव शाह की जगह कार्य किया परन्तु Aw-10 के अवलोकन से यह प्रकट है कि श्री उमराव शाह के छुट्टी से वापस आने के कारण दिनांक 7.11.91 को श्री छोटे लाल कार्यमुक्त हो गये हैं और इस सम्बन्ध में R-4 के माध्यम से चार्ज भी तैयार किया गया है जैसा कि Aw-10 के पैरा एक से जाहिर है। दिनांक 7.11.91 के दो-तीन दिन बाद पुनः श्री उमराव शाह के छुट्टी चले जाने का उल्लेख है जिस के आधार पर श्री छोटे लाल पुनः कार्य पर लगे हैं और दिनांक 31.7.92 तक उन्होंने कार्य किया है।

34. जहाँ तक याची पक्ष के विद्वान प्रतिनिधि द्वारा नियुक्ति की तिथि के सम्बन्ध में की गयी बहस का प्रश्न है जिसमें उन्होंने कहा है कि प्रार्थी की नियुक्ति तिथि दिनांक 30.08.1991 का श्री उमराव शाह के अवकाश से कोई सम्बन्ध नहीं है क्योंकि श्री उमराव शाह के अवकाश पर जाने के कारण अवकाश अवधि के लिए प्रार्थी की यदि नियुक्ति हुई होती तो वह दिनांक 01.08.1991 को नियुक्त होता क्योंकि अवकाश आवेदन में एक अगस्त से अवकाश याचित है जबकि नियुक्ति 30 अगस्त को की गयी है। इस सम्बन्ध में उल्लेखनीय है कि अभिलेख Aw-10 में अवकाश प्रारम्भ होने की अंकित तिथि का उल्लेख आवश्यक है जिसके पृष्ठ एक पर अंकित है कि श्री उमराव शाह ने दिनांक 30.08.1991 से

दिनांक 30.09.1991 तक अवकाश मांगी है न कि 1 अगस्त से मांगी है। Ex-M-1 में दिनांक 30.08.1991 को काटकर एक अगस्त दर्शाने का प्रयास किया गया है जो दिशाभ्रमित करने के लिए किसी ने किया है और उस पर दिनांक 01.8.91 भी अंकित किया गया है जो अलग से अंकित है।

35. Aw-10 के अनुसार दिनांक 30.08.1991 से दिनांक 30.09.1991 तक छुट्टी के लिए श्री उमराव शाह ने श्री छोटे लाल छीपी को एवजी के रूप में सुपुर्द किया। दिनांक 30.08.1991 के बाद अर्थात् दिनांक 1.10.1991 को श्री उमराव शाह छुट्टी से वापस न आकर दिनांक 7.11.91 को आये और श्री उमराव शाह ने चार्ज रिपोर्ट तैयार की जो Aw-10 के साथ संलग्नक R-4 थी। इसके बाद श्री छोटे लाल छीपी कार्यमुक्त कर दिये गये लेकिन 2-3 दिन के बाद ही श्री उमराव शाह ने पुनः श्री छोटे लाल छीपी को अपनी जगह 31.7.92 तक के लिए अपनी जगह काम पर लगाया जिसके सम्बन्ध में किसी वरिष्ठ अधिकारी को अनुमति नहीं थी। उक्त तथ्य एवं परिस्थिति में श्री गजानन्द जोगी का साक्ष्य में कथन गलत है कि श्री उमराव शाह दिनांक 30.08.1991 से दिनांक 6.11.1991 तक अवकाश पर गये थे जो दिनांक 31.07.1992 तक विस्तारित रहा। दिनांक 07.11.1991 को श्री छोटे लाल छीपी से चार्ज लेने और उसे कार्यमुक्त होने के तथ्य का समर्थन श्री गजानन्द जोगी ने भी किया है। इसी कार्य अवधि को विपक्ष द्वारा स्वीकार किया गया है कि श्री छोटे लाल छीपी ने दिनांक 30.08.1991 से दिनांक 31.07.1992 तक कार्य किया है। वास्तव में यह विपक्ष की स्वीकृति है जिसके आधार पर इस तथ्य की पुष्टि होती है कि श्री छोटे लाल छीपी ने श्री उमराव शाह की जगह दिनांक 30.08.1991 से दिनांक 31.07.1992 तक कार्य किया है अन्यथा वास्तव में याची पक्ष द्वारा केवल कथन एवं शपथ-पत्र प्रस्तुत है और इस सम्बन्ध में वास्तव में कोई भुगतान या हाजिरी का विवरण जैसा पुष्टिकारक साक्ष्य नहीं प्रस्तुत है। अतः याची पक्ष के इस बहस में कोई बल नहीं है कि प्रार्थी की विपक्षी विभाग में स्वतन्त्र नियुक्ति थी जिसका श्री उमराव शाह से कोई सम्बन्ध नहीं है बल्कि इसके विरुद्ध यह तथ्य साबित है कि श्री उमराव शाह की जगह अवकाश की अवधि हेतु ही प्रार्थी लगाये गये थे और इसी रूप में विपक्षी विभाग में दिनांक 30.08.1991 को लगे थे।

36. उक्त स्थिति से यह तथ्य भी साबित होता है श्री छोटे लाल छीपी की दिनांक 30.08.1991 से दिनांक 31.07.1992 तक की सेवा में निरन्तरता का भी अभाव है जो दिनांक 7.11.91 को श्री उमराव शाह की उपस्थिति एवं चार्ज लेने के कारण हुई है और पुनः श्री उमराव शाह की ही पहल पर श्री छोटे लाल छीपी दिनांक 31.07.1992 तक कार्य में संलग्न हुए हैं और दिनांक 31.7.92 को पुनः उनसे चार्ज श्री राधेश्याम ने ग्रहण किया है। दिनांक 31.07.1992 को कार्य मुक्ति का कारण विपक्ष द्वारा यह दर्शाया गया है कि उन्हें इसलिए कार्यमुक्त किया गया क्योंकि वह समाचार-पत्र में तथा कांग्रेस पार्टी के सक्रिय कार्यकर्ता के रूप में भी समानान्तर रूप से कार्यरत थे। यह भी उल्लेखनीय है कि वास्तव में प्रार्थी के सेवा से हटाये जाने के कारण का उल्लेख न तो याचिका में है और न ही वादोत्तर में है और न ही पक्षकारों के शपथ-पत्र में है। श्री गजानन्द के साक्ष्य में श्री छोटे लाल छीपी के टी.बी. से पीड़ित होने का उल्लेख M-2 अभिलेख के माध्यम से बताया गया है जिसके सम्बन्ध में पूछने पर प्रतिपरीक्षा में श्री गजानन्द ने अनभिज्ञता जाहिर की है और कहा है कि

इसे M-2 को लेखक डाक निरीक्षक महोदय ही बता सकते हैं। उक्त समस्त तथ्य एवं परिस्थिति के अवलोकन से यह जाहिर है कि प्रार्थी श्री छोटे लाल छीपी ने दिनांक 30.08.1991 से दिनांक 31.07.1992 के बीच की अवधि में दो अलग-अलग टुकड़ों में कार्य किया है और दोनों ही टुकड़ों की अवधि एक कलेण्डर वर्ष से कम है। यह भी स्पष्ट है कि विभाग में प्रार्थी की नियुक्ति नहीं सिद्ध है जैसा उसने याचिका में कहा है एवं विपक्ष द्वारा उसके एवजी होने के कथन की पुष्टि होती है जिसकी प्रकृति अस्थायी एवं श्री उमराव शाह की छुट्टी की अवधि तक समिति थी। प्रार्थी ने दिनांक 30.08.1991 से दिनांक 31.07.1992 तक लगातार कार्य नहीं किया है।

37. यहां पर इस तथ्य का उल्लेख किया जाना महत्वपूर्ण है कि विपक्ष द्वारा वादोत्तर में श्री राजेन्द्र सिंह बनाम एस.एस.पी.ओ., अलवर का जिक्र इस तथ्य के लिए किया गया है कि इस मामले में नकारात्मक एवार्ड पारित करते हुए न्यायाधिकरण द्वारा यह अवधारित किया गया है कि नियमित कर्मचारी के अवकाश पर जाने पर रखे गये एवजी कर्मचारी का मामला औद्योगिक विवाद अधिनियम के अन्तर्गत नहीं आता है और ऐसा एवजी कर्मचारी किसी अनुतोष का हकदार नहीं है। यह भी कहा गया है कि वाद संख्या 10/96 के निर्णय की प्रति R-3 के रूप में संलग्न है परन्तु उल्लेखनीय है कि वादोत्तर के साथ ऐसी कोई प्रति संलग्न नहीं है। बहस के दौरान यह कहा गया था कि विपक्ष द्वारा निर्णय की प्रति प्रस्तुत कर दी जायेगी परन्तु इस निर्णय के किये जाने तक प्रतिलिपि प्रस्तुत नहीं की गयी है। न्यायाधिकरण द्वारा तलाश किये जाने पर लिपिक के कथनानुसार ऐसा कोई निर्णय इस न्यायाधिकरण द्वारा पारित किया जाना नहीं पाया गया।

38. जहां तक प्रार्थी की सेवामुक्ति में धारा 25-एफ के उल्लंघन का प्रश्न है विपक्ष के विद्वान अधिवक्ता की तरफ से यह बहस की गयी है कि प्रार्थी को धारा 25-एफ की सुरक्षा उपलब्ध नहीं है तथा धारा 25-एफ के प्राविधान प्रार्थी के मामले में लागू नहीं होते हैं एवं प्रार्थी के मामले में धारा 2(oo) (bb) के प्राविधान लागू होते हैं, इसके विरुद्ध प्रार्थी के विद्वान अधिवक्ता की तरफ से यह बहस की गयी है कि धारा 25-एफ के प्राविधान प्रार्थी के मामले में आकर्षित होते हैं। प्रार्थी द्वारा अपने कथन के समर्थन में कई दृष्टान्तों को प्रस्तुत किया गया है याची पक्ष द्वारा प्रस्तुत दृष्टान्तों का मैंने सम्यक एवं सूक्ष्म अवलोकन किया है। धारा 25-एफ के सम्बन्ध में व्याख्या के पूर्व प्रार्थी द्वारा प्रस्तुत दृष्टान्तों में क्या तथ्य है तथा क्या अवधारणा व्यक्त की गयी है उसका उल्लेख यहां पर करना आवश्यक एवं प्रासंगिक समझता हूं जो निम्नवत है:-

1. गैमन इन्डिया लिमिटेड बनाम निरन्जन दास में प्रत्यर्थी वरिष्ठ लिपिक के पद पर नियुक्ति पत्र दिनांक 10.4.62 के आधार पर अपीलार्थी के यहां नियुक्त था। दिनांक 14.9.67 तक प्रत्यर्थी अपीलार्थी की सेवा में रहा। दिनांक 14.9.67 को अपीलार्थी ने उसे नोटिस दी कि मन्दी के कारण कम्पनी के कार्य में कमी की वजह से कम्पनी को प्रत्यर्थी की सेवाओं की आवश्यकता समाप्त हो गयी है। 14.10.67 के बाद प्रत्यर्थी की सेवा की कम्पनी को आवश्यकता नहीं रहेगी और प्रत्यर्थी इसे एक माह की सेवा समाप्ति का नोटिस समझे। प्रत्यर्थी इस अवधि में शेष अवकाश का उपभोग भी कर सकता है जो नोटिस की अवधि के साथ

समानान्तर चलेगी। प्रत्यर्थी के आवेदन पर निम्न रिफरेन्स न्यायनिर्णयन हेतु प्रेषित हुआ:-

"Whether the retrenchment of Shri Niranjan Dass is unjustified or illegal and if so, what directions are necessary in this respect."

उभयपक्ष के साक्ष्य के अवलोकनोपरान्त औद्योगिक न्यायाधिकरण ने यह अवधारित किया कि प्रत्यर्थी की छंटनी अनुचित व अवैधानिक थी तथा प्रत्यर्थी को सेवा में सवेतन पुनः स्थापित करने का निर्देश दिया। अपीलार्थी ने न्यायाधिकरण के निर्णय के विरुद्ध याचिका प्रस्तुत की जिसे माननीय उच्च न्यायालय की एकल पीठ ने स्वीकार की तथा मामले को पुनः निस्तारण हेतु न्यायाधिकरण को प्रेषित किया। माननीय एकल पीठ ने यह अवधारित किया कि प्रत्यर्थी की सेवा मुक्ति का मामला धारा 25 एफएफएफ से सम्बन्धित है क्योंकि कम्पनी का दिल्ली कार्यालय बन्द हो गया था अतः प्रत्यर्थी का प्रकरण धारा 25 एफएफएफ से नियन्त्रित होगा। एकल पीठ के निर्णय के विरुद्ध लेटर्स आफ पैटेंट अपील में माननीय उच्च न्यायालय की खण्डपीठ ने एकल पीठ के निर्णय को निरस्त किया तथा न्यायाधिकरण के निर्णय की पुष्टि की जिससे क्षुब्ध होकर अपीलार्थी/कम्पनी ने अपील प्रस्तुत की जिसे माननीय सर्वोच्च न्यायालय ने अस्वीकार की। माननीय खण्डपीठ ने यह अवधारित किया कि एकल पीठ को यह विधिक रूप से अनुमन्य नहीं था कि वह अवधारित करे कि प्रत्यर्थी का मामला धारा 25 एफएफएफ के अन्तर्गत बन्दी का मामला था क्योंकि रिफरेन्स में यह जाहिर था कि मामला छंटनी का था और न्यायाधिकरण को केवल यह निर्णित करना था कि छंटनी अनुचित या विधि-विरुद्ध थी। माननीय सर्वोच्च न्यायालय के समक्ष यह प्रश्न विचारणीय था कि न्यायाधिकरण का निर्णय सही है या माननीय एकलपीठ का निर्णय सही है। माननीय सर्वोच्च न्यायालय ने यह अवधारित किया कि नोटिस के अवलोकन मात्र से यह जाहिर है कि प्रत्यर्थी का मामला छंटनी का था। तदनुसार न्यायाधिकरण एवं खण्डपीठ के निर्णय की माननीय सर्वोच्च न्यायालय ने पुष्टि की।

2. ओरियन्टल बैंक आफ कॉमर्स व अन्य बनाम प्रिसाईडिंग ऑफिसर, सीजीआईटी-कम-लेबर कोर्ट, जयपुर एवं अन्य में प्रत्यर्थी (2) श्री गोपाल लाल शर्मा याची बैंक के अधीन 23.5.85 से 20.8.85 तक लगभग 79 दिन कार्यरत थे। प्रार्थी की नियुक्ति केवल अवकाश अवधि के लिए थी और समय की समाप्ति के साथ स्वतः समाप्त हो गयी। दो साल बाद प्रत्यर्थी ने धारा 25-जी एवं 25-एच का विवाद उठाया जो न्यायनिर्णयन हेतु न्यायाधिकरण को सुपुर्द हुआ। उभयपक्ष के साक्ष्योपरान्त न्यायाधिकरण ने धारा 25-जी एवं धारा 25-एच का उल्लंघन पर प्रत्यर्थी को सेवा में विगत वेतन रहित पुनर्स्थापना का आदेश दिया। प्रत्यर्थी कहीं अन्यत्र कार्यरत था अतः यह भी निर्देश दिया कि जिस दिन से बैंक की सेवा में प्रत्यर्थी पुनः सम्मिलित होगा उस दिन से वेतन का हकदार रहेगा। न्यायाधिकरण ने साक्ष्य के आधार पर यह पाया कि प्रबन्धन यह नहीं दर्शा सका कि किसकी जगह अवकाश अवधि में प्रत्यर्थी नियुक्त था जिसकी वापसी पर सेवा समाप्त की गयी। अतः न्यायाधिकरण ने यह तथ्य अस्वीकार किया कि प्रत्यर्थी अवकाश अवधि के लिए नियुक्त था। प्रबन्धन के साक्षियों ने ही स्वीकार किया था कि जब प्रत्यर्थी हटाया गया तो कनिष्क कर्मचारी श्री विरेन्द्र सिंह कार्यरत थे। यह भी स्वीकार किया

था कि प्रत्यर्थी के हटाने के बाद चपरासी के पद पर श्री मुलन रसूल एवं श्री नरेन्द्र भट्ट लगाये गये थे परन्तु प्रत्यर्थी को अवसर नहीं दिया गया क्योंकि ऐसी Practice नहीं थी। किसी कर्मी का नाम रोजगार कार्यालय से नहीं भेजा गया था। न्यायाधिकरण ने तदनुसार धारा 25-जी एवं 25-एच का उल्लंघन पाकर प्रत्यर्थी की आवेदन स्वीकार की। बैंक ने न्यायाधिकरण के निर्णय के विरुद्ध याचिका माननीय उच्च न्यायालय के समक्ष प्रस्तुत की जिसे माननीय खण्डपीठ ने निरस्त की और न्यायाधिकरण के निर्णय की पुष्टि यह कहते हुए कि की न्यायाधिकरण ने सही अवधारित किया था कि धारा 25-जी एवं 25-एच के उल्लंघन में प्रत्यर्थी की सेवा समाप्त की गयी थी।

3. छिद्दी सिंह बनाम जज, लेबर कोर्ट, जयपुर एवं अन्य में याचिकाकर्ता छिद्दी सिंह के कथनानुसार डालमिया डेरी इण्डस्ट्रीज में वह दिनांक 6.1.78 को एक कर्मकार के रूप में नियुक्त हुए। उनकी सेवा 2.4.79 को समाप्त कर दी गयी। उन्होंने सेवा समाप्ति के विरुद्ध औद्योगिक विवाद उठाया जो न्यायनिर्णयन के लिए श्रम न्यायालय, जयपुर को सुपुर्द किया गया। उन्होंने याचिका में यह कहा कि सेवा समाप्ति की तिथि के ठीक पूर्व एक वर्ष में उन्होंने 240 दिन से ज्यादा कार्य किया है उनकी सेवा धारा 25-एफ के उल्लंघन में समाप्त की गयी है। उन्हें नोटिस अथवा नोटिस के बदले कोई वेतन अथवा छंटनी सम्बन्धी क्षतिपूर्ति नहीं प्रदान की गयी। याचिकाकर्ता का यह भी कहना था कि एक साल की सेवा के बाद उसे अपने पद पर स्थायी होने का अधिकार था परन्तु प्रबन्धन ने उसकी सेवा समाप्त करके अनुचित श्रम व्यवहार किया। प्रार्थी ने कई लोगों के नाम का भी उल्लेख किया जिन्हें उसे हटाने के बाद सेवा में लगाया गया। जवाब में प्रबन्धन ने यह कहा कि प्रार्थी को आकस्मिक/अस्थायी तौर पर दिनांक 9.10.78 को रखा गया और उसकी नियुक्ति स्थायी पद पर नहीं थी। वह एक निर्धारित अवधि के लिए नियुक्त था जिसका विस्तार नहीं किया गया था क्योंकि कार्य नहीं उपलब्ध था। प्रबन्धन ने इस तथ्य से इन्कार किया कि प्रार्थी ने 12 माह सेवा की और उसमें 240 दिन से ज्यादा कार्य किया। यह भी कहा गया कि धारा 25-एफ के अनुपालन की आवश्यकता नहीं थी। प्रार्थी को विशुद्ध रूप से अस्थायी कार्य के लिए अस्थायी तौर पर लगाया गया था। प्रबन्धन के कथनानुसार दूध की मात्रा के बढ़ने पर अस्थायी मजदूरों की संख्या बढ़ जाती है। उन्हें डेरीमैन के नाम से जाना जाता है। जिन व्यक्तियों को याची ने अपनी नियुक्ति के बाद लगाये जाने का उल्लेख किया है वे प्रार्थी की जगह नहीं लगाये गये हैं। उभयपक्ष की सुनवाई तथा उनके द्वारा प्रस्तुत साक्ष्य के अवलोकनोपरान्त श्रम न्यायालय ने याचिकाकर्ता की आवेदन खारिज की और अवधारित किया कि याची याचित अनुतोष का हकदार नहीं है। श्रम न्यायालय ने यह अवधारित किया कि प्रार्थी ने 240 दिन कार्य नहीं किया था।

प्रार्थी ने श्रम न्यायालय के निर्णय के विरुद्ध माननीय उच्च न्यायालय के समक्ष भारतीय संविधान के अनुच्छेद 226 व 227 के अधीन रिट याचिका प्रस्तुत कर यह कथन प्रस्तुत किया कि प्रार्थी ने 240 दिन कार्य किया है और श्रम न्यायालय का निर्णय साक्ष्य के विपरीत है। प्रत्यर्थी की तरफ से यह कथन प्रस्तुत किया गया कि प्रार्थी ने स्वयं 9.10.78 को नियुक्ति हेतु आवेदन प्रस्तुत की थी जिस पर अस्थायी नियुक्ति प्रार्थी को

इस शर्त के साथ दी गई की उसकी सेवाएं बिना नोटिस अथवा नोटिस के बदले भुगतान के समाप्त की जा सकती है। यह भी कहा गया कि अस्थायी कर्मचारी को सेवा में बने रहने का अधिकार नहीं है। माननीय उच्च न्यायालय ने धारा 25-एफ (a) और (b), 2 (ओओ) 25B (1) और (2) की विस्तृत व्याख्या एवं विभिन्न दृष्टान्तों के आधार पर श्रम न्यायालय के निर्णय को अपास्त किया और यह अवधारित किया की प्रार्थी की सेवा धारा 25-एफ के प्राविधान के उल्लंघन में समाप्त की गयी एवं रिट याचिका स्वीकार की।

4. गुजरात स्टेट मशीन टूल्स कारपोरेशन लि० बनाम दीपक जे० देसाई में प्रत्यर्थी ने यह औद्योगिक विवाद उठाया कि उसकी सेवायें विधिक प्रक्रिया का अनुसरण किये बिना समाप्त कर दी गयी है अतः पूर्ण विगत वेतन के साथ उसे सेवा में पुनर्स्थापना का निर्देश दिया जाये। प्रत्यर्थी के कथनानुसार उसने 12.10.82 से 11.4.83 तक कम्पनी की सेवा की तथा उसे स्थायी कर्मचारी माना जाता था। अपीलार्थी ने वादोत्तर में न्यायाधिकरण के समक्ष यह कथन प्रस्तुत किया कि प्रत्यर्थी विशुद्ध रूप से अस्थायी नियुक्ति पर था, उसकी सेवा सही समाप्त की गयी तथा वह सेवा में पुनर्स्थापना या विगत वेतन के साथ पुनर्स्थापना का हकदार नहीं है। विद्वान श्रम न्यायालय ने माडल स्टैन्डिंग आर्डर और धारा 25 एच के प्राविधान को दृष्टिगत रख अपीलार्थी की आवेदन स्वीकार की तथा अखण्डित सेवा परन्तु विगत वेतन बिना पुनर्स्थापना का आदेश दिया। श्रम न्यायालय के निर्णय के विरुद्ध अपीलार्थी की याचिका में माननीय उच्च न्यायालय की खण्डपीठ ने श्रम न्यायालय के निर्णय की पुष्टि की तथा अपील खारिज की। माननीय खण्डपीठ ने यह अवधारित किया श्रम न्यायालय की अवधारणा सही थी कि प्रबन्धन द्वारा धारा 25-एच का उल्लंघन किया गया है।

5 स्टेट ऑफ राजस्थान एवं अन्य बनाम श्री महेन्द्र जोशी एवं अन्य में प्रत्यर्थी के कथनानुसार उसने एक कलेण्डर वर्ष में सार्वजनिक एवं रविवारीय अवकाशों को छोड़कर कुल 229 दिन कार्य किया था लेकिन उसकी सेवाएं धारा 25-एफ के उल्लंघन में समाप्त कर दी गयी। उसने 240 दिवस कार्य पूर्ण किये। उसे एक माह की नोटिस अथवा उसके बदले वेतन का भुगतान नहीं किया गया तथा क्षतिपूर्ति भी नहीं प्रदान की गयी एवं उसके कनिष्ठ को सेवा में रखा गया। उसकी सेवा दिनांक 16.10.85 को समाप्त की गयी। अपीलार्थी की तरफ से आपत्ति में यह कहा गया कि प्रत्यर्थी ने एक कलेण्डर वर्ष कार्य नहीं किया। 229 दिन अवकाश के दिनों के अतिरिक्त कार्य करना स्वीकार किया गया। कनिष्ठ कर्मी को सेवा में रखना स्वीकार किया गया परन्तु ऐसा न्यायालय के आदेश के अनुपालन में होना बताया गया जिसके आधार पर यह कहा गया कि न्यायालय के आदेश के अनुपालन में ऐसा होने से धारा 25-एफ का उल्लंघन नहीं हुआ।

साक्ष्य के आधार पर न्यायाधिकरण ने यह पाया कि प्रत्यर्थी ने एक कलेण्डर वर्ष कार्य किया तथा 240 दिन कार्य किया जिसके आधार पर सेवामुक्ति धारा 25-एफ के उल्लंघन में पायी गयी। प्रबन्धन द्वारा प्रस्तुत पर्याप्त साक्ष्य के अभाव में न्यायाधिकरण ने धारा-25 जी का भी उल्लंघन पाया। परन्तु धारा 25-एच का उल्लंघन नहीं पाया। न्यायाधिकरण ने 50 प्रतिशत विगत वेतन के साथ सेवा में पुनर्स्थापना हेतु आदेश दिया।

अपीलार्थी, राज्य द्वारा न्यायाधिकरण के निर्णय के विरुद्ध प्रस्तुत याचिका माननीय उच्च न्यायालय एकलपीठ द्वारा खारिज की गयी परन्तु विगत वेतन केवल 40 प्रतिशत तक स्वीकार की गयी। अपीलार्थी द्वारा एकलपीठ के निर्णय के विरुद्ध प्रस्तुत अपील माननीय खण्डपीठ द्वारा खारिज की गयी और यह अभिनिर्धारित किया गया कि किसी कर्मकार ने एक वर्ष की सेवा पूरी कर ली है इस पर विचार करने से पूर्व यह दर्शाना आवश्यक है कि उसे 12 कलैण्डर माह से कम अवधि हेतु रोजगार नहीं दिया गया था, फिर यह कि उसने इस अवधि में 240 दिन से कम कार्य नहीं किया। ये दोनों चीजे संचयी रूप से पूर्ण होनी चाहिए।

6 स्टेट ऑफ राजस्थान एवं अन्य अपीलार्थीगण बनाम राजेश कुमार वीरा एवं अन्य प्रत्यर्थीगण में अपीलार्थी दैनिक वेतन भोगी के रूप में 23.1.92 को नियुक्त था जिसकी सेवायें 16.2.93 को धारा 25-एफ के उल्लंघन में समाप्त की गयी और सेवा समाप्ति के अगले ही दिन धारा 25-एच के उल्लंघन में दूसरे व्यक्ति को नियुक्ति कर दी गयी।

सेवा समाप्ति के विरुद्ध याचिका में माननीय उच्च न्यायालय के अन्तरिम आदेश से चतुर्थ श्रेणी कर्मचारी के रूप में प्रत्यर्थी की नियुक्ति आगामी आदेश तक के लिए की गयी। वह दिनांक 18.2.96 तक कार्यरत रहा। रिट याचिका दिनांक 8.1.96 को इस आधार पर निरस्त की गयी थी प्रत्यर्थी श्रम न्यायालय से अनुतोष प्राप्त करे जिसके परिणामस्वरूप दिनांक 18.2.96 को सेवा समाप्त की गयी। श्रम न्यायालय के समक्ष इस बिन्दु पर विवाद नहीं था कि धारा 25-एफ तथा धारा 25-एच का उल्लंघन किया गया था अतः न्यायाधिकरण ने प्रत्यर्थी के पक्ष में निर्णय 25 प्रतिशत विगत वेतन के साथ पारित किया जिसके विरुद्ध चुनौती माननीय एकलपीठ द्वारा निरस्त की गयी। एकलपीठ के निर्णय के विरुद्ध अपील माननीय खण्डपीठ द्वारा निरस्त की गयी।

7 डायरेक्टर, दूरदर्शन केन्द्र बनाम द जज सेन्ट्रल इन्डस्ट्रीयल ट्रिब्यूनल एवं अन्य में प्रत्यर्थी कर्मकार की नियुक्ति दिनांक 3.1.87 को हुई थी। उसने 31.10.87 तक सेवा की और बिना कोई कारण बताये उसकी सेवा दिनांक 1.11.87 को समाप्त कर दी गयी। न्यायाधिकरण ने यह पाया कि प्रत्यर्थी की सेवामुक्ति में धारा 25-एफ का उल्लंघन नहीं था क्योंकि उसने केवल 96 दिन सेवा की थी परन्तु धारा 25-जी और 25-एच का उल्लंघन था क्योंकि उसके कनिष्ठ सेवा में रख गये थे जब उसकी सेवा समाप्त हुई तथा नयी नियुक्ति किये जाने पर उसे अवसर सेवा में आने का नहीं दिया गया अतः सेवा समाप्ति का आदेश निरस्त कर न्यायाधिकरण ने सेवा में पुनर्स्थापना एवं अन्य लाभ हेतु आदेश पारित किया जिसके विरुद्ध याचिका माननीय उच्च न्यायालय द्वारा खारिज की गयी।

8 म्यूनिसिपल बोर्ड, लखेरी, जनपद बूंदी बनाम श्रीमती मंगली बाई एवं अन्य में प्रत्यर्थी की water server के रूप में नियुक्त थी जिसकी सेवायें अपीलार्थी द्वारा धारा 25-एफ का अनुपालन किये बिना दिनांक 12.12.95 को समाप्त कर दी गयी। श्रम न्यायालय के समक्ष सेविका द्वारा यह आधार लिया गया कि सेविका ने कलैण्डर वर्ष में 240 दिन से ज्यादा कार्य किया था फिर भी उसकी सेवा बिना कोई कारण बताये समाप्त कर दी गयी। श्रम न्यायालय ने साक्ष्य के अवलोकनोपरान्त यह अवधारित किया कि सेविका ने 240 दिन सेवा पूरी कर ली थी अतः धारा

25-एफ का अनुपालन किये बिना सेवा समाप्त नहीं होनी चाहिए थी। श्रम न्यायालय ने प्रार्थनी की याचिका सेवा में बिना विगत वेतन केवल पुनर्स्थापना हेतु स्वीकार की। माननीय उच्च न्यायालय के समक्ष श्रम न्यायालय के निर्णय के विरुद्ध याचिका में विपक्ष का कथन था कि सेविका की नियुक्ति नियमित प्रक्रिया अपनाकर नहीं की गयी थी अतः विपक्ष द्वारा सेवा समाप्ति का आदेश न्यायसंगत था। याचिकाकर्ता म्यूनिसिपल बोर्ड द्वारा यह भी कहा गया कि जब सेविका के कार्य की आवश्यकता होगी तो प्रत्यर्थी को पुनः कार्य पर ले लिया जायेगा। माननीय उच्च न्यायालय ने म्यूनिसिपल बोर्ड की याचिका खारिज की एवं श्रम न्यायालय के निर्णय की पुष्टि धारा 25-एफ के उल्लंघन के आधार पर की।

9 राजस्थान ललित कला एकेडमी बनाम राधेश्याम में तथ्यानुसार प्रत्यर्थी की नियुक्ति दिनांक 7.6.80 को कनिष्ठ क्लर्क के पद पर 300 रुपया मासिक वेतन पर हुई थी। उसकी सेवाएं 4.4.81 को समाप्त कर दी गयी। औद्योगिक न्यायाधिकरण ने दिनांक 24.9.83 के निर्णय के आदेश से सेवा समाप्ति आदेश निरस्त किया एवं 24.9.83 से 50 प्रतिशत विगत वेतन के साथ पुनर्स्थापना का आदेश भी दिया। प्रत्यर्थी ने 25.09.83 को ही सेवा में सम्मिलित होने हेतु अपीलार्थी के यहां आवेदन प्रस्तुत की लेकिन वह सेवा में नहीं लिया गया। एवार्ड का प्रकाशन 17.4.84 को होने के बाद प्रत्यर्थी ने पुनः सेवा में सम्मिलित होने हेतु आवेदन सचिव, राजस्थान ललित कला एकाडमी को प्रस्तुत किया लेकिन उसे सेवा में नहीं लिया गया।

अपीलार्थी ने न्यायाधिकरण के निर्णय के विरुद्ध याचिका प्रस्तुत की जिसके लम्बित रहने के दौरान माननीय उच्च न्यायालय ने 50 प्रतिशत विगत वेतन भुगतान पर रोक लगायी परन्तु पुनर्स्थापना पर कोई रोक नहीं लगी। प्रत्यर्थी उक्त स्थिति में भी सेवा में नहीं लिया गया। अन्ततः अपीलार्थी की रिट याचिका खारिज हुई। सेवा में सम्मिलित न किये जाने से क्षुब्ध प्रत्यर्थी ने धारा 29 औद्योगिक विवाद अधिनियम के अन्तर्गत आवेदन प्रस्तुत की। प्रत्यर्थी ने पुनः सेवा में सम्मिलित होने हेतु 17.11.84 को पुनः आवेदन प्रस्तुत की लेकिन अपीलार्थी ने अनुमति नहीं दी और दिनांक 31.1.85 को प्रत्यर्थी की सेवा पुनः समाप्त कर दी।

प्रत्यर्थी की 31.1.85 की सेवा समाप्ति के विरुद्ध श्रम न्यायालय में रिफरेन्स न्यायाधिकरण हेतु पंजीकृत हुआ। प्रत्यर्थी ने दूसरा वाद धारा 33 सी (2) के अन्तर्गत 24.9.93 से 17.11.84 की अवधि के लिए वेतन की गणना एवं भुगतान हेतु प्रस्तुत किया, जो पंजीकृत हुआ।

न्यायाधिकरण के समक्ष अपीलार्थी का कथन था कि प्रत्यर्थी की नियुक्ति गैलरी अटेंडेन्ट के रूप में तीन माह की अवधि हेतु हुई थी जिसने स्वतः कार्य छोड़ दिया तथा रिट याचिका में निर्णय के बाद सेवा में पुनः सम्मिलित हुआ। यह भी कहा गया कि प्रत्यर्थी की सेवा की आवश्यकता न रहने के कारण उसकी सेवा धारा 25-एफ का अनुपालन करते हुए समाप्त कर दी गयी और रु० 1800/- डिमाण्ड ड्राफ्ट के माध्यम से उसे अदा किया गया। प्रत्यर्थी ने डिमाण्ड ड्राफ्ट के माध्यम से भुगतान से इन्कार किया। किसी प्रकार की नोटिस न देने एवं नोटिस के बदले कोई मुआवजा न देने तथा सेवा समाप्ति का कारण न बताने का भी अभिकथन किया। न्यायाधिकरण ने धारा 25-एफ के अनुपालन का साक्ष्य नहीं

पाया कि कोई ड्राफ्ट 1800 रुपये का प्रत्यर्थी को दिया गया था अतः न्यायाधिकरण ने दिनांक 26.4.87 के आदेश से 31.1.85 की सेवामुक्ति का आदेश 25 प्रतिशत विगत वेतन के साथ प्रत्यर्थी की सेवा में पुनर्स्थापना हेतु पारित किया। प्रत्यर्थी 4.9.83 से 17.11.84 तक वेतन का हकदार भी पाया गया।

पुनर्स्थापना के विरुद्ध पारित आदेश को अपीलार्थी ने माननीय उच्च न्यायालय के समक्ष याचिका प्रस्तुत कर चुनौती दी। अपीलार्थी की याचिका माननीय उच्च न्यायालय की एकल पीठ द्वारा खारिज की गयी जिसकी पुष्टि माननीय खण्डपीठ द्वारा की गयी जिससे क्षुब्ध होकर अपीलार्थी ने माननीय सर्वोच्च न्यायालय के समक्ष अपील प्रस्तुत की। माननीय सर्वोच्च न्यायालय ने मामले के तथ्य एवं परिस्थितियों में प्रत्यर्थी की सेवा में पुनर्स्थापना के बदले 3 लाख रुपये क्षतिपूर्ति प्रदान की। अपील तदनुसार निस्तारित की गयी।

10. कृष्ण सिंह बनाम एकजीक्यूटिव इन्जीनियर, में अपीलार्थी दिनांक 11-6-88 को दैनिक वेतन भोगी के रूप में काम पर लगा और दिसम्बर 93 तक कार्य किया। दिसम्बर 93 में उसकी सेवा बिना नोटिस के समाप्त कर दी गयी। धारा 25-एफ के प्राविधान का उल्लंघन पाकर श्रम न्यायालय ने 50 प्रतिशत विगत वेतन एवं अखण्डित सेवा के साथ कर्मकार को सेवा में पुनर्स्थापित करने का निर्देश दिया। श्रम न्यायालय के निर्णय के विरुद्ध माननीय उच्च न्यायालय ने भारतीय संविधान के अनुच्छेद 226 एवं 227 के अन्तर्गत प्रस्तुत याचिका में श्रम न्यायालय के निर्णय को निरस्त कर अपीलार्थी की सेवा में पुनर्स्थापना की जगह 50,000/- रुपये क्षतिपूर्ति प्रदान करने का आदेश दिया। माननीय उच्च न्यायालय के निर्णय के विरुद्ध अपील में माननीय सर्वोच्च न्यायालय के समक्ष यह प्रश्न विचाराधीन था कि क्या अनुच्छेद 226 एवं 227 के अन्तर्गत माननीय उच्च न्यायालय द्वारा श्रम न्यायालय के निर्णय को निरस्त करना सही था। माननीय सर्वोच्च न्यायालय ने अपने विभिन्न निर्णयों की व्याख्या कर अवधारित किया कि माननीय उच्च न्यायालय अनुच्छेद 226 एवं 227 की अधिकारिता के अन्तर्गत श्रम न्यायालय के निर्देशों में हस्तक्षेप नहीं करेगी। माननीय सर्वोच्च न्यायालय के तदनुसार अपील स्वीकार की।

11. अनुप शर्मा बनाम अधिशासी अभियन्ता में अपीलार्थी अनूप शर्मा दिनांक 11.10.95 को माली-सह-चौकीदार के पद पर नियुक्त हुआ जिसकी सेवायें 25.4.98 को समाप्त कर दी गयीं। श्रम न्यायालय के समक्ष अपीलार्थी का कथन था कि उसकी सेवायें, बिना नोटिस के बदले वेतन एवं बिना छंटनी मुआवजा एवं धारा 25-एन के आज्ञापक प्राविधान का अनुपालन किये बिना समाप्त कर दी गयी। यह भी कहा गया कि वरिष्ठता सूची तैयार नहीं की गयी और उसकी तुलना में उससे कनिष्ठ अधिकारी सेवा में बने रहे। विपक्ष का वादोत्तर कथन यह था कि आर्थिक कारणों से राज्य के निर्देशानुसार अपीलार्थी और उसके सदृश अन्य कर्मियों की सेवायें समाप्त की गयी। यह भी कथन था कि अपीलार्थी की सेवासमाप्ति आदेश के साथ क्षतिपूर्ति की धनराशि भी दी गयी थी जिसे अपीलार्थी ने स्वीकार नहीं की एवं ड्यूटी स्टेशन छोड़कर चला गया जिसके बाद 4591/- रुपये का ड्राफ्ट घर के पते पर भेजा गया। मौखिक साक्ष्य में प्रत्यर्थी द्वारा यह कहा गया कि दिसम्बर 95 से 25.4.98 तक खण्डित सेवा अपीलार्थी ने विपक्षी के यहां की तथा घर पर सेवासमाप्ति समबन्धित राशि ड्राफ्ट के माध्यम से भेजी गयी थी। यह भी कहा गया कि

कोई अपीलार्थी से कनिष्ठ सेवा में नहीं रोके रखा गया। कोई ऐसा साक्ष्य नहीं प्रस्तुत था जो इस कथन की पुष्टि करे कि ड्राफ्ट घर भेजा गया था। श्रम न्यायालय ने विगत वेतन के साथ सेवा में पुनर्स्थापना का आदेश पारित किया जिसकी अपील माननीय उच्च न्यायालय ने स्वीकार की परन्तु माननीय सर्वोच्च न्यायालय ने अपील में माननीय उच्च न्यायालय के निर्णय को अपास्त किया। माननीय उच्च न्यायालय ने यह अवधारित किया कि श्रम न्यायालय के पास इस निष्कर्ष के लिए कारण नहीं था कि छंटनी के समय अपीलार्थी को मुआवजा नहीं प्रस्तुत किया गया था। माननीय उच्च न्यायालय ने यह भी अवधारित किया कि अपीलार्थी की नियुक्ति अनुमोदित पर नहीं थी और नियुक्ति में नियुक्ति हेतु निहित प्राविधानों का पालन नहीं किया गया था। माननीय सर्वोच्च न्यायालय ने यह अवधारित किया कि इस मामले में भारतीय संविधान के अन्तर्गत प्रस्तुत याचिका में माननीय उच्च न्यायालय ने अधीनस्थ न्यायालय द्वारा प्रदत्त निष्कर्ष के हस्तक्षेप में जो दृष्टिकोण अपनाया वह माननीय उच्च न्यायालय की न्यायिक रूप से स्थापित प्रतिमानों एवं अधिकारिता की सीमा से बाहर था। यह भी अवधारित किया कि अपीलार्थी के सदृश दर्शित मामलों में श्रम न्यायालय के निर्णय की पुष्टि माननीय उच्च न्यायालय एवं माननीय सर्वोच्च न्यायालय द्वारा की गई थी जिन मामलों के सम्बन्ध में जानने का कष्ट उठाया गया होता तो माननीय उच्च न्यायालय द्वारा प्रश्नगत आदेश पारित ही नहीं हुआ होता। माननीय सर्वोच्च न्यायालय ने यह भी पाया कि धारा 25-एफ के उल्लंघन के सम्बन्ध में माननीय उच्च न्यायालय ने कोई निष्कर्ष नहीं दिया कि श्रम न्यायालय का इस बिन्दु पर निष्कर्ष विधि विरुद्ध था। भारतीय संविधान के अनुच्छेद 14 एवं 16 की अवहेलना अपीलार्थी की नियुक्ति के सम्बन्ध में माननीय उच्च न्यायालय द्वारा पाये जाने के सम्बन्ध में माननीय सर्वोच्च न्यायालय ने यह अवधारित किया है कि इसका कोई उल्लेख प्रत्यर्थी के वादोत्तर में नहीं था और न ही यह मामला श्रम न्यायालय या उच्च न्यायालय के समक्ष उठाया गया था कि अपीलार्थी को निहित प्राविधान का अनुसरण किये बिना अनुच्छेद 14 एवं 16 के उल्लंघन में नियुक्त किया गया था इसलिए उसे हटाया गया। इस दृष्टान्त से प्रार्थी के मामले में कोई मदद नहीं ली जा सकती है।

12. रमेश कुमार बनाम हरियाणा राज्य में अपीलार्थी माली के रूप में मुख्य मंत्री के आवास पर दिसम्बर 91 में कार्य शुरू किया और 31 जनवरी 93 में बिना नोटिस एवं कारण बताये उसकी सेवा समाप्त कर दी गयी। श्रम न्यायालय के समक्ष अपीलार्थी ने धारा 25-एफ के उल्लंघन के कथन के साथ सेवामुक्ति आदेश निरस्त करने की प्रार्थना की। विपक्ष का कथन था कि वर्ष 1992 के अतिरिक्त प्रार्थी ने 240 दिन की सेवा किसी वर्ष में नहीं पूरी की। श्रम न्यायालय ने उभयपक्ष की सुनवाई के बाद यह अवधारित किया कि एक कलेण्डर वर्ष में याची ने सेवासमाप्ति की तिथि के ठीक पूर्व 240 दिन से ज्यादा अखण्डित कार्य किया है। श्रम न्यायालय ने धारा 25-एफ के उल्लंघन के परिणामस्वरूप अपीलार्थी को सेवासमाप्ति की तिथि से 50 प्रतिशत पिछले वेतन के साथ अखण्डित सेवासहित पुनर्स्थापना का निर्देश दिया। इस निर्णय के विरुद्ध राज्य की याचिका माननीय उच्च न्यायालय द्वारा स्वीकार की गयी जिसके विरुद्ध याची ने माननीय सर्वोच्च न्यायालय में अपील प्रस्तुत की जो स्वीकार की गयी।

13. सुरेश चन्दर बनाम नगरपालिका, राजसमन्द एवं अन्य के मामले में श्रम न्यायालय, उदयपुर ने अपीलार्थी की सेवामुक्ति में धारा 25-एफ का उल्लंघन पाकर सेवामुक्ति का आदेश निरस्त किया परन्तु सेवा में पुनर्स्थापना की जगह 15,000/- रुपये क्षतिपूर्ति प्रदान की। श्रम न्यायालय के निर्णय के विरुद्ध अपीलार्थी/कर्मकार की अपील में माननीय उच्च न्यायालय ने क्षतिपूर्ति निर्धारण के मानकों की व्याख्या कर अपील स्वीकार की एवं क्षतिपूर्ति की धनराशि 1,16,666/- रुपये प्रदान की। इस मामले में कर्मकार लगभग छः साल की सेवा के बाद 25 वर्ष की उम्र में सेवा से अलग कर दिया गया था। यह दृष्टान्त क्षतिपूर्ति की मात्रा पर केन्द्रित है। श्री छोटेलाला छिपी के मामले के तथ्य एवं परिस्थितियों में यह दृष्टान्त प्रासंगिक नहीं है।

14. आराम सैनी बनाम द प्रिंसाइडिंग आफिसर सीजीआईटी-कम-लेबर कोर्ट, जयपुर में अपीलार्थी चतुर्थ श्रेणी कर्मचारी के रूप में 28.6.89 से नियुक्त था जिसकी सेवाएं 08.09.1992 को समाप्त कर दी गयी। अपीलार्थी द्वारा धारा 25-एफ के उल्लंघन का आधार लिया गया। प्रत्यर्थी ने समझौता वार्ता के दौरान स्वीकार किया कि उक्त अवधि में अपीलार्थी 78 दिन पूर्ण दिवस तथा शेष दिन आधा दिवस कार्य किया। 1996 में समझौता वार्ता प्रारंभ हुई जो असफल होने पर 1998 में रिफरेन्स पर न्यायाधिकरण में निर्णयार्थ दर्ज हुई। उभयपक्ष के साक्ष्य के आधार पर न्यायाधिकरण ने निष्कर्ष दिया कि अपीलार्थी ने कलैण्डर वर्ष में 240 दिन सेवा प्रदान की थी। न्यायाधिकरण ने अपीलार्थी की अखण्डित सेवा मानते हुए 50 प्रतिशत विगत वेतन के साथ अपीलार्थी की सेवा में पुनर्स्थापना का आदेश दिया जिसके विरुद्ध याचिका माननीय उच्च न्यायालय की एकल पीठ द्वारा स्वीकार की गयी और यह अभिनिरासित किया गया कि अपीलार्थी की नियुक्ति नियमानुसार नहीं थी इसलिए सेवा में पुनर्स्थापना का आदेश पारित नहीं हो सकता था। माननीय एकलपीठ ने यह भी अभिनिरासित किया कि 240 दिन लगातार सेवा साबित करने का भार अपीलार्थी पर था जिसे उसने नहीं निभाया है। एकलपीठ के निर्णय से क्षुब्ध होकर अपीलार्थी ने अपील प्रस्तुत की जिसे माननीय उच्च न्यायालय की खण्डपीठ ने स्वीकार की और अपीलार्थी द्वारा किये गये विलम्ब को दृष्टिगत रख 50 प्रतिशत विगत वेतन की स्वीकृति सेवामुक्ति की तिथि के बजाय याचिका प्रस्तुत करने की तिथि से स्वीकार की। न्यायाधिकरण का निर्णय तदनुसार संशोधित किया गया। एकलपीठ के निर्णय के सम्बन्ध में माननीय उच्च न्यायालय ने यह अवधारित किया कि न्यायाधिकरण के निर्णय को पलटने में जो कारण माननीय एकलपीठ ने दर्शाये हैं यह विधिक रूप से सही नहीं हैं।

15. न्यू देहली म्यूनिसिपल कौन्सिल बनाम प्रवीन चन्द्र शर्मा, में प्रत्यर्थी ने अपीलार्थी के यहाँ दिनांक 12.5.87 से 5.3.88 तक, 240 दिन से अधिक की अवधि तक लगातार दैनिक वेतन भोगी के रूप में कार्य करने एवं धारा 25 एफ के उल्लंघन में अपनी सेवा समाप्त हो जाने के कथन के साथ आवेदन प्रस्तुत कर सेवा में पुनर्स्थापना तथा विगत वेतन की मांग की। अपीलार्थी ने केवल 236 दिन तक सेवा करने का कथन किया और मस्टर रोल की कार्ड की फोटो प्रति प्रस्तुत की। मूल मस्टर रोल न प्रस्तुत होने के कारण न्यायाधिकरण ने प्रत्यर्थी की आवेदन 2.8.96 को स्वीकार की और वेतन सहित पुनर्स्थापना के लिए निर्देशित किया। न्यायाधिकरण के निर्णय के विरुद्ध याचिका माननीय उच्च न्यायालय की

एकलपीठ ने अस्वीकार की तथा न्यायाधिकरण के निर्णय की पुष्टि की। एकल पीठ के निर्णय के विरुद्ध अपील में माननीय खण्डपीठ के न्यायाधिकरण के सवेतन पुनर्स्थापना के निर्णय को संशोधित कर लगभग 24 साल के लम्बे अन्तराल के दृष्टिगत रख प्रत्यर्थी को 5 लाख रुपये क्षतिपूर्ति प्रदान करते हुए अपील निस्तारित की।

16. श्री सुदर्शन राजपूत बनाम यू.पी. स्टेट रोड ट्रान्सपोर्ट कार्पोरेशन के तथ्यानुसार श्री सुदर्शन राजपूत चालक के पद पर दिनांक 11.3.97 से कार्यरत थे और सेवा के दौरान दिनांक 7.6.99 को जब वह रोडवेज की बस देवरिया से कानपुर लेकर जा रहे थे तो अचानक स्टियरिंग फेल (अनियन्त्रित) होने के कारण बस दुर्घटनाग्रस्त हो गयी। इस दुर्घटना में सुदर्शन की दोनों टाँगें टूट गयी जिसके परिणामस्वरूप लखनऊ मेडिकल कालेज में वह 9.8.2010 तक चिकित्सातर रहे। दिनांक 10.8.2000 को जब वह स्वस्थता प्रमाण पत्र के साथ सेवा में शामिल होने हेतु अपने कार्यालय उपस्थित हुए तो उन्हें रोडवेज द्वारा मौखिक रूप से यह कहा गया कि चालक की सूची से उनका नाम काट दिया गया है तथा उनकी सेवा समाप्त कर दी गयी है। उस दिन श्री सुदर्शन को सेवा समाप्ति का कोई आदेश भी नहीं दिया गया।

दिनांक 29.7.2000 के सेवा समाप्ति आदेश को प्रार्थी ने यू.पी. औद्योगिक विवाद अधिनियम 1947 के अन्तर्गत चुनौती दी। निम्न विवाद न्याय निर्णयन हेतु श्रम न्यायालय को सुपुर्द किया गया:— Whether the termination of services of the appellant workman by the respondent-Corporation *vide* order dated 29.7.2000 is proper and valid? If not then whether the concerned appellant-workman is entitled to receive interest/compensation?

उभयपक्ष को सुनवाई का अवसर दिये जाने के पश्चात् श्रम न्यायालय ने सेवामुक्ति आदेश निरस्त करते हुए यह अवधारित किया कि सेवामुक्ति के पूर्व कोई जाँच नहीं की गयी थी कि दुर्घटना चालक की लापरवाही से हुई थी जैसा कि सेवामुक्ति आदेश में कथन किया गया था और न्यायाधिकरण के समक्ष भी ऐसा कोई साक्ष्य नहीं प्रस्तुत किया गया था। श्रम न्यायालय ने रोडवेज के इस कथन को भी खारिज किया कि श्री सुदर्शन की सेवा संविदा पर थी। श्रम न्यायालय ने यह अवधारित किया कि एक कलैण्डर वर्ष में कर्मचारी ने 240 दिन से ज्यादा सेवा की थी और बिना वैध कारण के उसकी सेवा समाप्त की गयी। सेवा समाप्ति का आदेश निरस्त करते हुए श्रम न्यायालय ने निर्देशित किया कि कर्मचारी को सेवा में समस्त वेतन सहित चालक के पद पर पुनर्स्थापित किया जाए तथा सेवा समाप्ति की तिथि से समस्त लाभ प्रदान किया जाये तथा उसे भविष्य में भी वेतन सेवा प्रदान की जाए।

श्रम न्यायालय के निर्णय को माननीय उच्च न्यायालय के समक्ष चुनौती दी गयी कि निर्णय साक्ष्य पर अवधारित नहीं है कि कर्मचारी कार्पोरेशन का स्थायी कर्मचारी था। यह भी कहा गया कि अस्थायी संविदा कर्मी था। माननीय उच्च न्यायालय ने श्रम न्यायालय के आदेश को निरस्त किया और अवधारित किया कि प्रत्यर्थी श्री सुदर्शन राजपूत सेवा में प्रवेश की तिथि से सेवामुक्ति तक एकीकृत छंटनी भत्ता के हकदार थे।

माननीय सर्वोच्च न्यायालय के समक्ष कर्मचारी/अपीलार्थी की अपील में माननीय उच्च न्यायालय के निर्णय का सही होना विचारणीय था जिसको विभिन्न विधिक बिन्दुओं पर चुनौती दी गयी थी।

माननीय सर्वोच्च न्यायालय ने निर्णय के प्रस्तर 17 में पक्षकारों के साक्ष्य के आधार पर यह अवधारित किया है कि अपीलार्थी संविदा कर्मचारी नहीं था बल्कि स्थायी कर्मचारी था। उसने साक्ष्य में यह भी कहा था कि उसके कनिष्क कर्मचारी उसकी सेवामुक्ति के समय स्थायी रूप से कार्यरत थे। माननीय सर्वोच्च न्यायालय ने यह अवधारित किया है कि माननीय उच्च न्यायालय द्वारा पारित निर्णय आदेश निरस्त होने योग्य है। माननीय सर्वोच्च न्यायालय ने अपील स्वीकार की तथा माननीय उच्च न्यायालय के निर्णय को निरस्त किया।

सुदर्शन राजपूत बनाम यू.पी. स्टेट रोड ट्रान्सपोर्ट कार्पोरेशन के मामले से प्रार्थी को कोई मदद नहीं दी जा सकती है क्योंकि सुदर्शन राजपूत के मामले के तथ्य एवं प्रार्थी छोटेलाल के मामले के तथ्य में कोई साम्यता नहीं है।

17. जशमेर सिंह बनाम हरियाणा राज्य एवं अन्य में अपीलार्थी एक दैनिक वेतन कर्मी के रूप में सब डिविजनल इंजीनियर, डिविजन 3, पानीपत के अधीन दिनांक 1.1.93 से दिसम्बर 93 तक कार्यरत था। उसने 240 दिन से ज्यादा अवधि तक एक कलेण्डर वर्ष में कार्य किया था। कर्मकार का कथन था कि उसकी सेवा धारा 25 एफ, 25 जी एवं 25 एच के उल्लंघन में समाप्त की गयी। उसे नोटिस, नोटिस के बदले वेतन अथवा छटनी मुआवजा दिये बिना उसकी सेवा समाप्त की गयी। कर्मकार ने सेवा में पुनर्स्थापना की मांग विगत वेतन तथा अनुगामी लाभ के साथ की। राज्य श्रम मंत्रालय ने एवार्ड हेतु विवाद औद्योगिक न्यायाधिकरण-सह-श्रम न्यायालय को प्रस्तुत की जो कर्मकार के पक्ष में निर्णित हुआ। नियोक्ता ने माननीय उच्च न्यायालय के एकलपीठ के समक्ष एवार्ड के विरुद्ध याचिका प्रस्तुत कर यह अभिकथन प्रस्तुत किया कि रिफरेन्स में सब डिविजनल इंजीनियर 8, करनाल पक्षकार नहीं थे तथा एवार्ड समय सीमा से बाधित था, औद्योगिक विवाद अधिनियम के प्रावधान प्रार्थी के मामले में लागू नहीं होते। यह भी कहा गया है कि 1.1.93 को प्रार्थी डिविजनल 8 में कार्यरत था जहां से स्वतः छोड़कर अगस्त 1993 में चला गया, इस प्रकार उसने 240 दिन सेवा नहीं की थी। यह भी कहा गया प्रार्थी के साथ कार्यरत कुछ अन्य दैनिक वेतन भोगी कर्मी सितम्बर 1993 में भी कार्यरत रहे अतः प्रार्थी को कार्य पर नहीं रखने का कोई प्रश्न नहीं था अगर वह भी सितम्बर 93 में कार्य करता रहता। यह भी कहा गया कि अक्टूबर 1993 में प्रार्थी/अपीलार्थी अन्य सब डिविजनल आफिसर, 6, के यहां चला गया जहां कोई दूसरा कार्य चला रहा था। वहां पर उसने नयी नियुक्ति प्राप्त की तथा दिसम्बर 1993 तक कार्यरत रहा और वहां से पुनः उसने स्वेच्छा से काम दिसम्बर 1993 में छोड़ दिया। इस प्रकार विपक्ष द्वारा कोई सेवा समाप्ति का आदेश पारित नहीं किया गया। प्रार्थी ने एक कलेण्डर वर्ष में 240 दिन सेवा पूरी नहीं की, इस प्रकार धारा 25 एफ (a) एवं (b) का अनुपालन आवश्यक नहीं था। विपक्ष के कथन के विरुद्ध अपीलार्थी ने जबाबुलजबाब भी प्रस्तुत किया। पक्षकारों के अभिवचनों के आधार पर पांच वाद बिन्दु सृजित किये गये थे। प्रार्थी ने सितम्बर 1993 की मस्टर रोल यह दर्शाने के लिए प्रस्तुत की कि उसने 240 दिन कार्य किया जिसके आधार पर न्यायाधिकरण ने प्रार्थी के पक्ष में वाद-बिन्दुओं का निस्तारण किया। प्रार्थी के साक्ष्य में इस कथन के आधार पर कि प्रार्थी 1240/- रुपये मासिक वेतन पर नियुक्त था, न्यायाधिकरण ने वाद बिन्दु संख्या एक प्रार्थी के पक्ष में निर्णित किया था।

प्रार्थी के कथनानुसार डिविजन 3 और 6 में उसने संयुक्त रूप से 31.12.93 तक 310 दिन से ज्यादा कार्य किया था एवं दोनों डिविजनों के अधिशासी अभियन्ता एक ही थे। सितम्बर 1993 में मस्टर रोल के अनुसार उसने 22 दिन कार्य किया था। प्रबन्धन द्वारा बताये गये कार्य दिवसों को दृष्टिगत रख और कर्मकार द्वारा बताये गये कार्य दिवसों को दृष्टिगत रख प्रार्थी ने 240 दिन से ज्यादा कार्य किया था।

माननीय उच्च न्यायालय की एकलपीठ के न्यायाधिकरण के निर्णय दिनांक 27.7.2000 के विरुद्ध याचिका दिनांक 7.4.2010 को स्वीकार की जिसकी पुष्टि माननीय उच्च न्यायालय की खण्डपीठ ने दिनांक 19.9.13 को की। दिनांक 19.9.13 के निर्णय से क्षुब्ध होकर प्रार्थी/अपीलार्थी ने माननीय सर्वोच्च न्यायालय के समक्ष याचिका प्रस्तुत की। सितम्बर में कार्य करने से सम्बन्धित प्रार्थी के अभिलेख को विपक्ष ने याची की प्रतिपरीक्षा में सही न होने के सम्बन्ध में कोई चुनौती नहीं दी थी। विपक्षी साक्षी ने भी दोनों डिविजनों में प्रार्थी द्वारा कार्य करना स्वीकार किया था और अक्टूबर 1993 से दिसम्बर 1993 तक किसी अन्य डिविजन में कार्य करना स्वीकार किया था जो राष्ट्रीय राजमार्ग डिविजन का हिस्सा नहीं था। इस तथ्य को दृष्टिगत रखते हुए कि दोनों डिविजनों के अधिशासी अभियन्ता एक ही थे तथा अधिशासी अभियन्ता नियोक्ता अधिकारी थे माननीय सर्वोच्च न्यायालय ने अधिकरण के निर्णय की पुष्टि की तथा अपील स्वीकार की।

39. जहां तक धारा 2 (oo)(bb) में विहित व्यवस्था का प्रश्न है इसके प्रावधान निम्नवत हैं:-

(गण) “छंटनी से नियोजक द्वारा किसी कर्मकार की सेवा का ऐसा पर्यवसान अभिप्रेत है, जो अनुशासन संबंधी कार्यवाही के रूप में दिए गए दंड से भिन्न किसी भी कारण से किया गया हो, किन्तु इसके अन्तर्गत निम्नलिखित नहीं आते:-

(खख) “नियोजक और सम्पृक्त कर्मकार के बीच हुई नियोजन संविदा के समाप्त हो जाने पर उसका नवीकरण न किए जाने या नियोजन संविदा में उस निमित्त अन्तर्विष्ट किसी अनुबन्ध के अधीन ऐसी संविदा का पर्यवसान किए जाने के फलस्वरूप किसी कर्मकार की सेवा का पर्यवसान;

40. धारा 25-एफ का प्रावधान आकर्षित होने के लिए माननीय सर्वोच्च न्यायालय द्वारा 2006 सुप्रीम कोर्ट (एल*एण्ड एस*), 38, सुरेन्द्र नगर जिला पंचायत-अपीलार्थी बनाम दहयाभाई अमर सिंह-प्रत्यर्थी में प्रस्तर 8 पृष्ठ 43 में दी गयी व्यवस्था धारा 2 (ओओ), धारा 25 (बी) एवं 25 (एफ) के सम्बन्ध में उल्लेखनीय है जो निम्नवत है:-

"To attract provisions of Section 25-F, the workman claiming protection under it, has to prove that there exists relationship of employer and employee; that he is a workman within the meaning of Section 2(s) of the Act; the establishment in which he is employed is an industry within the meaning of the Act and he must have put in not less than one year of continuous service as defined by Section 25-B under the employer. These conditions are cumulative. If any of these conditions is missing the provisions of Section

25-F will not be attracted. To get relief from the court the workman has to establish that he has right to continue in service and that his service has been terminated without complying with the provisions of Section 25-F of the Act.

The section postulates three conditions to be fulfilled by an employer for getting a valid retrenchment, namely:—

- (i) one month's clear notice in writing indicating the reasons for retrenchment or that the workman has been paid wages for the period of notice in lieu of such notice;
- (ii) payment of retrenchment compensation which shall be equivalent to 15 day's average pay for every completed year of continuous service or any part thereof, in excess of six months;
- (iii) a notice to the appropriate Government in the prescribed manner."

41. माननीय सर्वोच्च न्यायालय द्वारा दी गयी उक्त व्यवस्था से यह जाहिर है कि अन्य बातों के अतिरिक्त प्रार्थी और विपक्षी के बीच "कर्मकार" और नियोजक का रिश्ता होना चाहिए। वाद बिन्दु संख्या 4 के निस्तारण से यह अवधारित किया गया है कि प्रार्थी "कर्मकार" नहीं है इसलिये धारा 25-एफ के प्रावधान प्रार्थी के मामले में आकर्षित नहीं होता है। प्रार्थी द्वारा प्रस्तुत समस्त दृष्टान्तों के तथ्य एवं परिस्थितियों के तथा प्रार्थी छोटे लाल के मामले के तथ्य एवं परिस्थितियों के अवलोकन से यह स्पष्ट है कि उनमें परस्पर कोई सामन्जस्य नहीं है अतः प्रार्थी के मामले में किसी दृष्टान्त से मदद नहीं ली जा सकती है। उक्त समस्त व्याख्या व विश्लेषण के आधार पर मैं इस निष्कर्ष पर हूँ कि विपक्षी प्रबन्धन द्वारा प्रार्थी श्री छोटे लाल छीपी की नियुक्ति दिनांक 30.8.91 को नहीं की गयी थी और उन्होंने केवल श्री उमराव शाह की जगह उनकी अवकाश की अवधि में काम किया तथा उन्होंने दिनांक 30.8.91 से 31.7.92 तक लगातार काम नहीं किया तथा उनकी सेवायें धारा 25-एफ के उल्लंघन में समाप्त नहीं की गयी। वाद बिन्दु संख्या एक तदनुसार प्रार्थी के विरुद्ध नकारात्मक निर्णित किया जाता है।

निस्तारण वाद बिन्दु संख्या-2

42. यह वाद बिन्दु इस आशय का है कि क्या विपक्ष ने श्री छोटे लाल छीपी की सेवासमाप्ति के बाद औद्योगिक विवाद अधिनियम की धारा 25-एच के उल्लंघन में नयी नियुक्ति की है? याचिका के प्रस्तर सात में नयी नियुक्ति का उल्लेख याची पक्ष ने किया है परन्तु नव नियुक्त व्यक्ति के नाम का उल्लेख नहीं है। विपक्ष ने नयी नियुक्ति के तथ्य से इन्कार किया है। प्रार्थी श्री छोटे लाल छीपी द्वारा साक्ष्य में प्रस्तुत शपथ-पत्र के प्रस्तर छः में यह उल्लेख है कि उनको सेवामुक्त करते समय उनसे कनिष्क अनेक श्रमिक कार्यरत थे लेकिन किसी के नाम का उल्लेख नहीं है। श्री मुरारी लाल शर्मा की नियुक्ति प्रार्थी की सेवामुक्ति किये जाने का बाद किये जाने का उल्लेख है लेकिन तारीख का उल्लेख नहीं है। प्रतिपरीक्षा में साक्षी श्री छोटे लाल छीपी के समक्ष प्रश्न रखा गया है कि उन्हें केवल श्री उमराव शाह की अवकाश अवधि के लिए डाक विभाग में

रखा गया था इस सम्बन्ध में उन्हें क्या कहना है तो साक्षी ने उत्तर दिया है कि एक दो दिन छुट्टी की जगह काम करवाया जाता है लम्बी अवधि तक छुट्टी की जगह काम थोड़े करवाया जाता है। इस जवाब से श्री छोटे लाल छीपी के पक्ष में कोई विधिक अधिकारिक हक ईंडीएमसी के पद पर बने रहने का नहीं बनता है। यह तथ्य साबित हो चुका है तथा इसकी व्याख्या वाद-बिन्दु संख्या एक के निस्तारण में हो चुकी है की श्री छोटे लाल छीपी विभाग में नियुक्त कर्मी नहीं थे बल्कि श्री उमराव शाह की जगह एवजी थे। श्री गजानन्द जोगी विपक्षी साक्षी ने शपथ-पत्र के प्रस्तर 4 में कहा है कि ईंडीएमसी की नियुक्ति के लिए केन्द्र सरकार द्वारा निश्चित प्रक्रिया निर्धारित है। श्री छोटे लाल छीपी के मामले में ऐसी किसी प्रक्रिया का अनुसरण कर नियुक्ति नहीं की गयी थी। पत्रावली पर उपलब्ध एवं याची द्वारा प्रस्तुत अभिलेख Ex-M-3 के अवलोकन से यह जाहिर है कि अपरान्ह दिनांक 31.7.92 को श्री छोटे लाल छीपी ने श्री राधेश्याम को कार्यभार सौंपा है जिसकी पुष्टि पृष्ठ 7 पर श्री गजानन्द जोगी के साक्ष्य से होती है। राधेश्याम के सम्बन्ध में विपक्षी साक्षी ने अनभिज्ञता जाहिर की है। याची पक्ष की तरफ से भी प्रस्तुत साक्ष्य में इस बात का कोई उल्लेख नहीं है कि राधेश्याम पुराने कर्मचारी है कि चार्ज अन्तरण के दिन ही उन्हें रखा गया लेकिन श्री कृष्ण मुरारी के सम्बन्ध में स्थिति स्पष्ट है कि उन्हें श्री छोटे लाल छीपी को हटाकर नौकरी नहीं दी गयी है बल्कि श्री उमराव शाह के लगातार अनुपस्थिति रहने के कारण अनुशासनिक कार्यवाही में उन्हें आरोपित कर सेवा से हटाया गया है जिसके परिणामस्वरूप उनका पद दिनांक 28.10.95 को रिक्त घोषित हुआ है। तत्पश्चात रोजगार कार्यालय से श्री उमराव शाह के रिक्त पद पर नियुक्ति हेतु नाम मांगे गये हैं। इस बीच श्री छोटे लाल छीपी को विभाग द्वारा पत्राचार से यह सुझाव भी दिया गया है कि वह अपना नाम रोजगार कार्यालय में दर्ज करावे। रोजगार कार्यालय से मांगे गये नामों में श्री छोटे लाल छीपी का नाम नहीं रहा है इस कारण उसकी नियुक्ति पर विचार नहीं किया गया है। दिनांक 6.11.1995 को श्री कृष्ण मुरारी की नियुक्ति रोजगार कार्यालय से नाम प्रायोजित होने के बाद की गयी है। उक्त कार्यवाही याची द्वारा प्रस्तुत अभिलेख Aw-10 के अवलोकन से होती है। उक्त स्थिति से यह जाहिर है कि श्री कृष्ण मुरारी की नियुक्ति होने में और श्री छोटे लाल छीपी की नियुक्ति न होने में किसी प्रक्रिया का उल्लंघन नहीं है न ही किसी पक्षपात का अंश दृष्टिगोचर होता है क्योंकि उनका नाम रोजगार कार्यालय से नहीं भेजा गया है। अतः यह तथ्य साबित है कि श्री छोटे लाल छीपी के दिनांक 01.8.92 से सेवा से हटने के बाद श्री कृष्ण मुरारी की नियुक्ति हुई है।

43. जहां तक धारा 25-एच के उल्लंघन का प्रश्न है सुलभ सन्दर्भ हेतु धारा 25 एच का प्राविधान अंकित किया जा रहा है जो निम्नवत् है:-
"धारा 25-ज. छंटनी किए गए कर्मकारों का पुनः नियोजन-

जहां कि किन्हीं कर्मकारों की छंटनी की जाती है और नियोजक किन्हीं व्यक्तियों को अपने नियोजन में रखने की प्रस्थापना करता है, वहां वह उन छंटनी किए गए कर्मकारों को, जो भारत के नागरिक हैं, ऐसी रीति से, जैसी विहित की जाए, यह अवसर देगा कि पुनः नियोजन के लिए अपने को प्रस्थापित करें और छंटनी किए गए उन कर्मकारों को जो पुनः नियोजन के लिए अपने को प्रस्थापित करें अन्य व्यक्तियों पर अधिमान मिलेगा।"

44. उक्त प्राविधान में यह व्यवस्था है कि यदि किसी कर्मकार की छंटनी की जाती है और उसके बाद नियोजक किन्हीं व्यक्तियों को अपने नियोजन में रखना चाहता है तो ऐसी स्थिति में छंटनी किये गये कर्मकार को पुनः नियोजन का अवसर प्रदान किया जावेगा और यदि छंटनी किया गया कर्मकार पुनर्नियोजन का इच्छुक है तो उसे अन्य व्यक्तियों की तुलना में वरीयता दी जावेगी।

45. Aw-10 के अवलोकन से यह जाहिर है कि प्रार्थी को सुझाव नियुक्ति प्रक्रिया करने से पहले दिये गये थे कि वह भी अपना नाम रोजगार कार्यालय में दर्ज करावे। रोजगार कार्यालय के प्रेषित नामों में प्रार्थी का नाम नहीं था। विपक्ष के लिए नियुक्ति हेतु रोजगार कार्यालय से नाम लेना अनिवार्य था। अतः प्रार्थी श्री छोटे छीपी को अन्य व्यक्तियों के विरुद्ध विपक्ष द्वारा वरीयता तभी दी जा सकती थी यदि उनका नाम भी रोजगार कार्यालय के प्रायोजित अभ्यर्थियों में होता।

46. अब महत्वपूर्ण प्रश्न यह है कि क्या श्री कृष्ण मुरारी की नियुक्ति से धारा 25-एच औद्योगिक विवाद अधिनियम का उल्लंघन हुआ है। इस तथ्य को सिद्ध करने का भार प्रार्थी श्री छोटे लाल छीपी पर है कि यह साबित करे कि धारा 25-एच का लाभ पाने के वे हकदार हैं।

47. श्री छोटे लाल छीपी ने अपनी याचिका में यह उल्लेख किया है कि वह डाक विभाग द्वारा दिनांक 30.8.91 को नियुक्त किये गये हैं जो उनके ही मौखिक साक्ष्य से तथा प्रस्तुत अभिलेख से यह साबित हुआ है कि वह नियुक्त नहीं किये गये थे बल्कि श्री उमराव शाह की जगह अवकाश अवधि हेतु लगाये गये थे अतः उनका सेवा में बने रहने का हक अधिक से अधिक श्री उमराव शाह की अवकाश अवधि तक बनता है जिन्हें अवकाश से वापस न आने के कारण अनुशासनिक कार्यवाही कर सेवा से हटाया गया है। इस प्रकार श्री छोटे लाल छीपी के मामले में धारा 2 (oo) (bb) का प्रावधान आकर्षित होता है धारा 25-एच का प्रावधान केवल उस स्थिति में आकर्षित होता है जब याची संस्थान द्वारा नियुक्त हो और उसकी छंटनी कर दी गयी हो। यह भी उल्लेखनीय है कि वाद-बिन्दु के निस्तारण में यह अवधारित किया गया है प्रार्थी कर्मकमार नहीं है इस आधार पर भी श्री छोटे लाल छीपी धारा 25-एच काम काम पाने के हकदार नहीं है।

48. उक्त समस्त व्याख्या एवं विश्लेषण के आधार पर मैं इस निष्कर्ष पर हूँ कि प्रार्थी श्री छोटे लाल छीपी के सेवा से मुक्त होने के बाद श्री कृष्ण मुरारी शर्मा की नियुक्ति विभाग द्वारा की गयी है परन्तु मामले की तथ्य एवं परिस्थितियों में धारा 25-एच औद्योगिक विवाद अधिनियम का उल्लंघन नहीं है। वाद-बिन्दु संख्या दो तदनुसार नकारात्मक निर्णित किया जाता है।

वाद-बिन्दु संख्या पांच

49. यह वाद बिन्दु इस आशय का है कि याची किस अनुतोष का हकदार है? वाद-बिन्दु संख्या एक लगायत 4 के निष्कर्ष से यह प्रकट है कि प्रार्थी धारा 2 (एस) औद्योगिक विवाद अधिनियम 1947 के प्राविधान के अनुसार “कर्मकार” नहीं है। डाक विभाग के प्रबन्धन द्वारा श्री छोटे लाल छीपी की सेवा समाप्ति विधिक एवं उचित है। याची किसी अनुतोष को पाने का हकदार नहीं है। वाद-बिन्दु संख्या पांच तदनुसार नकारात्मक निर्णित किया जाता है।

50. वाद बिन्दु संख्या एक लगायत पांच के प्राप्त निष्कर्ष से मैं इस मत का हूँ कि औद्योगिक विवाद अधिनियम 1947 की धारा 2 एस के अनुसार एक्सट्रा डिपार्टमेंटल मेल कैरियर “कर्मकार” नहीं है, श्री छोटे लाल छीपी को प्रबंधन द्वारा सेवामुक्त करने की कार्यवाही विदित एवं उचित है तथा याची याचित अनुतोष पाने का हकदार नहीं है। न्यायनिर्णयन हेतु प्रेषित निर्देश का उत्तर उक्त प्रकार दिया जाता है। पंचाट तदनुसार पारित किया जाता है।

51. पंचाट की प्रतिलिपि केन्द्रीय सरकार को औद्योगिक विवाद अधिनियम 1947 की धारा 17 (1) के अंतर्गत प्रकाशनार्थ प्रेषित की जाय।

भरत पाण्डेय, पीठासीन अधिकारी

नई दिल्ली, 14 मई, 2015

का.आ. 1048.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बजाज इलेक्ट्रिकल्स लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार नेशनल इंडस्ट्रियल ट्रिब्यूनल, मुंबई के पंचाट (संदर्भ संख्या NTB-9 of 2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/05/2015 को प्राप्त हुआ था।

[सं० एल-42025/02/2015-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 14th May, 2015

S.O. 1048.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award (I.D. No. NTB-9 of 2003) of the Central Government National Industrial Tribunal, Mumbai now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of the Bajaj Electricals Limited and their workmen, which was received by the Central Government on 14/05/2015.

[No. L-42025/02/2015-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL MUMBAI

Present :

JUSTICE S.P. MEHROTRA, Presiding Officer

COMPLAINT NO. NTB-9 OF 2003

(Arising out of Reference NTB-1 of 1997)

Parties:

V. Subramanian ... Complainant

And

Ms. Bajaj Electricals Ltd. ... Opponent

Appearances:

For the Complainant : Mr. A. Mathew, Adv.
 For the Opponent : Mr. M.S. Paranjpe, Adv.
 State : Maharashtra
 Mumbai, dated the 5th day of May, 2015

AWARD

1. V. Subramanian, Complainant filed the present Complaint under Section 33-A of the Industrial Disputes Act, 1947 making the following prayers:

"(a) holding and declaring the Chargesheet-cum-suspension dated 9th March 2000 issued to the Complainant at Annexure-'A' as illegal and void ab initio;

(b) directing the Opponent Company to pay full wages treating the Complainant as if working w.e.f. the date of suspension, i.e. 9th March 2000;

(c) directing the Opponent Company to pay adequate compensation for having meted out social, physical and mental torture to the Complainant;

(d) to grant any other relief the Hon'ble Tribunal may deem fit and proper; and

(e) to direct the Opponent Company to pay cost of this Complaint."

2. The Complaint pertains to Reference No. NTB-1 of 1997 which was pending before this Tribunal when the Complaint was filed. In the said Reference No. NTB-1 of 1997, Award was passed by this Tribunal on 20.2.2004. The said Award was challenged by the Opposite Party herein before the Bombay High Court by filing Writ Petition being Writ Petition No. 1368 of 2004. The said Writ Petition was disposed of by the Bombay High Court by the Order dated 14.12.2004.

3. As regards the present Complaint, Pleadings were exchanged between the parties. Evidence on behalf of the parties was also led. The case is at the stage of arguments.

4. The case was lastly listed on 7.4.2015 by the Order dated 7.4.2015, the case was directed to be put up on 5.5.2015. Accordingly, the case is put up today.

5. Mr. A Mathew, learned counsel for the Complainant and Mr. M.S. Paranjpe, learned counsel for the Opposite Party are present. Both the learned counsel for the parties state that pursuant to the disciplinary proceedings which commence with the Chargesheet-cum-Suspension Order dated 9.3.200, as mentioned in the aforementioned Complaint, the services of the Complainant were terminated. Both the learned counsel for the parties further state that in regard to the termination of services of the Complainant, the Opposite Party herein has filed Approval Application

No. 15 of 2005 under Section 33(2)(b) of the Industrial Disputes Act, 1947. Both the learned counsel for the parties further state that the said termination is also the subject-matter of Complaint No. 1 of 2005 filed by the Complainant herein.

6. In the circumstances, learned counsel for both the parties state that so far as the present Complaint namely, complaint No. NTB-9 of 2003 is concerned, the same has become infructuous, and the same may be dismissed as such.

7. In view of the Join Statement made by the learned counsel for the parties, the aforementioned Complaint No. NTB-9 of 2003 is dismissed as having become infructuous.

8. Award is passed accordingly.

Justice S. P. MEHROTRA, Presiding Officer

नई दिल्ली, 14 मई, 2015

का.आ. 1049.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2 चंडीगढ़ के पंचाट (संदर्भ संख्या 1546/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/05/2015 को प्राप्त हुआ था।

[सं० एल-40012/12/2008-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 14th May, 2015

S.O. 1049.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award (I.D. No. 1546/2008) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited and their workman, which was received by the Central Government on 14/05/2015.

[No. L-40012/12/2008-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH**

Present: SRI KEWAL KRISHAN, Presiding Officer

Case No. I.D. No. 1546/2008

Registered on. 20.6.2008

Sh. Harmesh Singh, S/o Sh. Dilip Singh, R/s 86, Moga, Village and PO Bhardana Dhani, Fatehabad.

...Petitioner

Versus

1. The Chief General Manager, Bharat Sanchar Nigam Ltd., Telecom Haryana Circle, Ambala Cantt.
2. The Divisional Engineer, Telegraph, Bharat Sanchar Nigam Ltd. Fatehabad.

...Respondents

Appearances :

For the workman Sh. Raj Kaushik, Adv.
 For the Management Sh. Kailash Sharma, Adv.

Award**Passed on 9.4.2015**

Central Government *vide* Notification No. L-40012/12/2008-IR(DU) dated 2.6.2008, by exercising its power under Section 10 sub-section (1) Clause (d) and sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management of Chief General Manager, Telecom, BSNL, Ambala Cantt. Divisional Engineer, Telegraph, BSNL, Fatehabad, in terminating the services of their workman Sh. Harmesh Singh *w.e.f.* 15.4.2004 is legal and justified? If not, to what relief the workman is entitled to?"

According to the workman, he was appointed as Peon on 7.9.2001 in the Office of SDO(T), Fatehabad on daily basis and he worked till 30.10.2002. He was shifted to Accounts Branch where he worked till 15.4.2004 and also used to do the work of a Clerk. His services were terminated on 15.4.2004 without serving any notice or payment of retrenchment compensation and therefore his termination is illegal.

Respondent management filed written reply controverting the averments and pleaded that workman was engaged occasionally on availability of work by the AO (TRU) Fatehabad and he did not work continuously. Since he was not engaged, he was not to be paid any retrenchment compensation.

In support of its case the workman appeared in the witness box and filed his affidavit along with the documents Exhibit W1 to W133.

On the other hand the management has examined Sh. Mahesh Rana, who filed his affidavit reiterating the stand taken by the management in the written statement.

I have heard Sh. Raj Kaushik, counsel for the workman and Sh. Kailash Sharma, counsel for the management.

It was argued by the learned counsel for the management that there was no relationship of employer and employee between the parties and the workman was engaged

occasionally on job basis and as such he cannot claim himself to be the employee of the management.

It may be added that claimant has specifically pleaded that he was appointed as Peon on 7.9.2011 at Fatehabad where he worked till 30.10.2002 and was then shifted to the Accounts Branch. Though this fact is denied by the respondent department but it has pleaded that the workman was engaged occasionally on job basis. Thus the respondent management itself admits that the workman was engaged for doing certain jobs in the department but occasionally. Sh. Mahesh Rana, examined by the respondent management has admitted that workman was employed earlier by the DETC, then he was engaged by the SDO and thereafter he (witness) engaged the workman. Thus the engagement of the workman is admitted. It was for the management to prove by way of documentary evidence that the workman was engaged occasionally and on job basis but the department did not choose to produce any record to establish that the workman in fact worked occasionally and not regularly as pleaded by him. Thus taking the pleadings and the statement of Mahesh Rana into account, the case of the workman stands probablized that he worked with the department from 7.9.2001 to 15.04.2004 and it is the case of the workman that he was drawing wages as per DC rates. Since the workman worked from 7.9.2001 to 15.4.2004, it is to be held that he worked continuously for 240 days prior to the termination of services and since his services were terminated without service of notice or payment of retrenchment compensation and as such, the termination of his services is not legal and valid.

The respondent department is a statutory body and have its rules and regulations for making the appointment. Nothing has come on the file that any procedure was followed while appointing the workman but the fact remains that he was engaged by the respondent management, may be without following the rules. Since the appointment is not as per rules and regulations, his reinstatement cannot be ordered. In the circumstances, he is to be paid compensation. Though nothing has come on the record that what was being paid to him but he worked for more than two-and-a-half years with the department. Considering the totality of the circumstances and by guess work, he is to be awarded Rs. 1 lac by way of compensation.

In result, the reference is answered holding that workman is entitled to get Rs. 1 lac as compensation from the respondent management who shall pay the same within two months from the publication of the award failing which the workman will be entitled to get interest at the rate of 6 per cent per annum from the date of the award till realization. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 14 मई, 2015

का.आ. 1050.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार फेडरल बैंक के प्रबंधन के सबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अरूनाकुलम के पंचाट (संदर्भ संख्या 5/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/05/2015 प्राप्त हुआ था।

[सं. एल-12011/26/2010-आईआर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th May, 2015

S.O. 1050.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 05/2011) of the Ernakulam as shown in the Annexure, in the industrial dispute between the management of Federal Bank and their workmen, received by the Central Government on 14/05/2015.

[No. L-12011/26/2010-IR(B-1)]
SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present :

Shri D. Sreevllabhan, B.Sc., LL.B., Presiding Officer

(Thursday the 16th day of April, 2015/26th Chaitra, 1937)

ID 5/2011

Union : The General Secretary
Federal Bank Employees Union
Central Office
Aluva
By Adv. Shri C Anil Kumar

Management : The Chairman
Federal Bank Limited.
Aluva
By M/s B.S. Krishnan Associates

This is case coming up for final hearing on 30.03.2015 and this Tribunal-cum-Labour Court on 16.04.2015 passed the following:

AWARD

In exercise of the powers conferred by clause (d) of sub-section(1) and sub-section(2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government/Ministry of Labour vide Order No. L-12011/26/2010-1R(B-1) dated 08.03.2011 referred the industrial dispute scheduled thereunder for adjudication to this tribunal.

2. The dispute is:

"Whether the action of the management of Federal Bank Limited, in imposing a penalty of reduction of basic pay by one stage in the scale of pay on Shri T. Shanmughavelu, the erstwhile Typist-cum-clerk, is legal and justified? To what relief the workman is entitled?"

The workman, while working as typist-cum-clerk in the Chaliyam Branch of the management bank, was issued with a chargesheet dated 12.05.2007 for the acts of gross misconducts of (a) willful insubordination or disobedience of any lawful and reasonable order of the management or of a superior (b) doing any act prejudicial to the interest of the bank or gross negligence or negligence involving or likely to involve the bank in serious loss and (c) misbehavior towards customers arising out of bank's premises along with the order placing him under suspension with immediate effect. An enquiry was ordered to be conducted by appointing Shri P.K. Satheesh, the then Senior Manager as the enquiry officer. After conducting enquiry he had submitted the enquiry report to the disciplinary authority after finding that all the charges levelled against him were proved. The disciplinary authority accepted the findings after hearing the workman and imposed the penalty of 'reduction of basic pay by one stage.' The appeal filed by him before the appellate authority was dismissed confirming the order of the disciplinary authority. Hence this industrial dispute was raised by the union which resulted in this reference.

4. Union filed claim statement challenging the validity of the enquiry, the findings of the enquiry officer and the penalty imposed on the workman. The issuance of a composite order placing him under suspension, ordering an enquiry and appointing an enquiry officer to conduct the enquiry along with the charge memo without waiting for his explanation would reveal that the management was predetermined in the matter of disciplinary action against him. The enquiry was conducted in violation of the principles of natural justice without affording sufficient opportunity to the workman to adduce evidence. The evidence tendered by him was not considered by the enquiry officer in the right perspective. The enquiry was only a farce and the findings of the enquiry officer are totally perverse and not based on any legal evidence. There was no legally acceptable evidence before the enquiry officer to prove the alleged misconducts. He was victimized by the management for the claim made by him for higher post. The punishment imposed on the workman is too harsh and is disproportionate to the charges found to have been proved in the enquiry. Hence it is prayed that an award be passed setting aside the order of imposition of penalty and directing the management to restore the benefits denied to him consequent to that order.

5. Management filed written statement denying the allegations in the claim statement challenging the validity of the enquiry, the findings of the enquiry officer and the proportionality of the punishment imposed on the workman. It is further contended that after allotting him with the work in the main cash section in Chaliyam branch he used to pick up quarrels with customers by deliberately delaying service to them. In the morning on 11.05.2007 the manager handed over a cash remittance of ₹ 7 lakhs to the case officer Shri Abdul Khader, Manager (Administration) for entrusting it to the workman who was the then main cashier for accounting. Without following the normal procedure of transferring cash balance to the other cash counters he started counting the cash remittance of ₹ 7 lakhs. In spite of the repeated oral instructions he was not prepared to transfer the cash to the other cash counters but he continued to count the cash. At about 10:20 AM on that day the Manager issued an office order to him to transfer cash to the other cash counters immediately. He had acknowledged the office order by writing in the office order book that "I am receiving 7 lakhs deposit. He must wait till them". He transferred the cash balance to the other cash counters only at 10:35 AM after counting the cash of ₹ 7 lakh and thereby he had deliberately delayed the normal functioning of the branch. On 05.05.2007 at around 11:00 AM he had misbehaved towards an old lady customer who came to his counter for the release of some of her gold ornaments pledged with the bank. Disciplinary action was initiated against him after placing him under suspension for the acts of gross misconducts of.

- (a) willful insubordination or disobedience of any lawful and reasonable order of the management or of a superior;
- (b) doing any act prejudicial to the interest of the bank or gross negligence or negligence involving or likely to involve the bank in serious loss and
- (c) misbehavior towards customers in the bank's premises.

Considering the seriousness of the charges an enquiry was conducted against him by appointing Shri P.K. Satheesh, the then Senior Manager as the enquiry officer. He was defended in the enquiry by Shri K. Abdussalam, Advocate, Calicut. The enquiry officer conducted the enquiry as per rules and by complying with the principles of natural justice by affording him every opportunity to prove his innocence. After conducting the enquiry the enquiry officer found him guilty of the acts of 'willful insubordination or disobedience of any lawful or reasonable orders of the management or of a superior', 'doing any act prejudicial to the interest of the bank' and 'misbehavior towards customers arising out of bank's premises'. The disciplinary authority accepted the findings of the enquiry officer after affording an opportunity of hearing him and imposed the punishment of 'reduction of basic pay by one stage in the scale of pay'. The appeal filed by him before the appellate

authority challenging the imposition of penalty was dismissed *vide* order dated 10.02.2009. The allegations as till treatment by the management are made without any basis or bonafadies. He was earlier dismissed from the services of the bank after conducting an enquiry. But he was ordered to be reinstated by the tribunal on the ground that the punishment imposed on him was disproportionate to the gravity of misconduct without interfering the findings as to his misconducts proved in that enquiry. After reinstatement there was no improvement in him and hence disciplinary action was initiated against him for the alleged misconducts. The enquiry officer entered into the findings against him after having a proper appreciation of the evidence in the enquiry. The disciplinary authority imposed the penalty after having due regard to the gravity of the proved misconducts. It is neither disproportionate nor harsh or excessive. It is just, legal, proper and valid and hence the workman is not entitled to any relief.

6. Union did not file any rejoinder in spite of the opportunity given for that purpose.

7. As the validity of the enquiry was under challenge the same was dealt with treating it as a preliminary issue. For the purpose of deciding that issue the enquiry officer was examined as MW1 and the enquiry file was marked at Ext. M1. The enquiry was found to be valid by this tribunal as per the preliminary order dated 06.02.2015. Since the enquiry was found to be valid the ID was posted for final hearing and the arguments for both sides were heard.

8. The points for determination are:

- (i) Whether the domestic enquiry conducted against the workman was fair and in accordance with the principles of natural justice?
- (ii) Whether the findings entered into against him in the enquiry call for any interference by this tribunal?
- (iii) Whether the punishment imposed on him is disproportionate to the misconducts?
- (iv) Whether the workman is entitled to any relief?

9. Point No. (i):— As per the preliminary order dated 06.02.2015 it was found that the enquiry was conducted in a fair and proper manner after affording reasonable opportunity to the workman and without violating the principles of natural justice. As the enquiry was found to be valid as per the preliminary order no further probe is required with regards to it and the same form part of the award.

10. Point No. (ii):— The allegations in the chargesheet based on which the charges as to the three gross misconducts levelled against the workman reads thus:

"11(a). Shri Shanmugavelu T was allotted with main cash section with effect from May, 2007. Ever since

he took charge of the section, there have been complaints from customers on the delay and deficiency of service on the part of Shri Shanmugavelu.

(b) In the morning of 11.05.2007, the Manager had handed over a cash remittance of Rs. 7 lakh to the cash officer Shri Abdul Kader, Manager (Admn) for entrusting the same to the main cashier for accounting. Shri Shanmugavelu started counting the cash remittance of Rs. 7 lakh without following the normal procedure of transferring cash balance to other cash counters. The cash officer had told Shri Shanmugavelu that there was no hurry to account the cash remittance of Rs. 7 lakh since the same was checked by him and could be accounted at his convenience. But Shri Shanmugavelu was adamant and not willing to obey the instruction of the cash officer under the plea that he would transfer the cash only after counting Rs. 7 lakh handed over by the cash officer. By that time several customers were waiting at the counter. On seeing the customers accumulated at the counter, the Manager enquired about the matter with Shri Abdul Kader, Manager (Admn.) and he personally went to the cash cabin and instructed Shri Shanmugavelu to transfer cash balance to other cash counters. Since Shri Shanmugavelu did not comply with the oral instruction of the Manager, by 10.20 AM the Manager issued officer order to Shri Shanmugavelu to transfer cash balance to other cash counters immediately. Shri Shanmugavelu acknowledged the office order by writing in the office order book that "I am receiving 7 lakh of deposit. He (other cashier) must wait till then". Finally he transferred the cash balance to other cash counters only at 10.35 am after completing the counting of the cash of Rs. 7 lakh.

(c) It is further reported that on 05.05.2007 at around 11.00 AM, an old lady customer Smt. Pathumakutty approached the counter of Shri Shanmugavelu for releasing some of her gold ornaments pledged with the Bank. She was waiting for her turn for quite some time and when she asked him to accept the cash, he retorted "Now no convenience for me. Go away for other work." The lady then broke out in front of the customers on hearing the words."

11. The enquiry was conducted by the enquiry officer without violating the principles of natural justice and after affording sufficient opportunity to the workman to adduce evidence. During the course of enquiry MW1 to MW3 were examined and Exts. ME-1 to ME-10 were marked from the side of the management to prove the charges levelled against him. From the side of the workman he got himself examined as a witness and produced Exts. DE-1 and DE-2. After having a detailed consideration of the evidence the

enquiry officer found that there is sufficient evidence to prove the acts of misconduct and entered into the finding that all the charges levelled against the workman were proved. Those findings were accepted by the disciplinary authority and thereby he was imposed with the penalty of 'reduction of basic pay by one stage in the scale of pay'. The findings of the enquiry officer as well as the penalty imposed by the disciplinary authority were upheld by the appellate authority.

12. The enquiry is found to be valid and there is no perversity in the findings of the enquiry officer. He had entered in to the findings after having a careful analysis of the evidence. Except the reinstatement of the workman in service pursuant to the order in ID 749/2001 no other circumstances is brought to the notice of this tribunal to satisfy that it is as a part of victimization the disciplinary action was initiated against him which resulted in the imposition of penalty. It is not in dispute that the findings in the earlier disciplinary proceedings as to the misconducts of the workman were not interfered with by the tribunal in that case.

13. As this industrial dispute does not relate to the discharge or dismissal Section 11A is not applicable in this case. The jurisdiction of the tribunal to interfere with disciplinary matters for punishment cannot be equated with an appellate jurisdiction and the tribunal cannot interfere with the findings of the enquiry officer or competent authority where they are not arbitrary or utterly perverse. If there has been an enquiry consistent with the rules and in accordance with the principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority and if the penalty can be lawfully imposed and is imposed on the proved misconduct the tribunal has no power to substitute its own discretion for that of the authority.

14. In the decision reported in *The General Secretary, South Indian Cashew Factories Workers' Union Vs. The Managing Director, Kerala State Cashew Development Corporation Ltd. & Ors.*, AIR 2006 SC 2008 it was held that if the enquiry was conducted fairly and properly in the absence of any allegations of victimization or malafides or unfair labour practice the Labour Court has no power to interfere with the punishment imposed by the management. Therein it was held:

"if enquiry is fair and proper, in the absence of any allegations of victimization or unfair labour practice, the Labour Court has no power to interfere with the punishment imposed. Section 11A of the Act gives ample power to the Labour Court to reappraise the evidence adduced in the enquiry and also sit in appeal over the decision of the employer in imposing punishment. Section 11A of the Industrial Disputes Act is only applicable in the case of dismissal or

discharge of a workman as clearly mentioned in the Section itself - When enquiry was conducted fairly and properly, in the absence of any of the allegations of victimization or malafides or unfair labour practice, Labour Court has no power to interfere with the punishment imposed by the management. Since Section 11A is not applicable Labour Court has no power to re-appraise the evidence to find out whether the findings of the enquiry officer are correct or not or whether the punishment imposed is adequate or not. Of course, Labour Court can interfere with the findings if the findings are perverse."

15. Here in this case there is no reason to hold that the finds of the enquiry officer are perverse. The acknowledgement in Ext. ME-6 itself is sufficient enough to prove that he was disobeying the order of the superior officer. There is also the evidence of MWs 1 to 3 coupled with documentary evidence to prove the alleged misconducts. It cannot in any way be said that it is a case of victimization in view of the facts and circumstances in the case.

16. The enquiry officer after analyzing the evidence in the enquiry entered into the findings after assigning valid reasons. Conclusion reached by the enquiry officer cannot be said to be of such a nature as no reasonable person would have reached. The enquiry was conducted in a fair and proper manner. The findings of the enquiry officer are based on evidence and cannot be said to be perverse. Hence I do not find any reason to interfere with the findings of the enquiry officer which was accepted by the disciplinary authority and upheld by the appellate authority.

17. Point No. (iii):— The penalty imposed by the disciplinary authority cannot in any way be said to be shockingly disproportionate to the proved misconducts. In the decision reported in State of Rajasthan Vs. Mohammed Ayub Naz 2006 (1) KLT 581 (SC) it was held:

"In determining the quantum, role of administrative authority is primary and that of Court is secondary, confined to see if discretion exercised by the administrative authority caused excessive infringement of rights. The court/tribunal cannot interfere with the findings of fact based on evidence and substitute its own independent findings and that where findings of disciplinary authority or appellate authority are based on some evidence Court/Tribunal cannot re-appreciate the evidence and substitute its own findings."

18. There is no reason to interfere with the findings against the workman as to the charge levelled against him and the imposition of penalty by the disciplinary authority which was confirmed by the appellate authority. Hence the penalty imposed on the workman does not call for any interference by this tribunal.

19. Point No. (iv):— In the result an award is passed holding that the action of the management in imposing the penalty of reduction of basic pay by one stage in the scale of pay on the workman is legal and justified and hence he is not entitled to any relief.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistance, transcribed and typed by her, corrected and passed by me on this the 16th day of April, 2015.

APPENDIX

Witness for the union — NIL

Witness for the management

MW 1 11.06.2013 Shri Satheesh P.K.

Exhibits for the union — NIL

Exhibits for the management

M1 — Enquiry file.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT, ERNAKULAM

Present :

Shri D. Sreevallabhan, B.Sc., LL.B., Presiding Officer

(Friday the 06th day of February, 2015/17th Magha,
1936)

ID No. 5/2011

Union : The General Secretary
Federal Bank Employees Union
Central Office
Aluva
By Adv. Shri C Anil Kumar

Managment : The Chairman
Federal Bank Limited
Head Office
Aluva
By M/s. B S Krishnan Associates

The case coming up for preliminary hearing on 22.01.2015 and this Tribunal-cum-Labour Court on 06.02.2015 passed the following:

PRELIMINARY ORDER

This is a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 (14 of 1947).

2. The dispute referred for adjudication is whether the action of the management of Federal Bank Limited imposing the penalty of reduction of basic pay by one stage in the scale of pay on the workman is legal and justified.

3. The workman was an employee of the management bank. While he was working as typist-cum-clerk in the Chaliyam Branch of the Bank he was issued with a chargesheet dated 12.05.2007 for the acts of gross misconducts of (a) willful insubordination or disobedience of any lawful and reasonable order of the management or of a superior; (b) doing any act prejudicial to the interest of the bank or gross negligence or negligence involving or likely to involve the bank in serious loss and (c) misbehaviour towards customers arising out of bank's premises as per Bipartite Settlement dated 10.04.2002 on Disciplinary Action and Procedure.

4. He was placed under suspension with immediate effect on 12.05.2007 and an enquiry was ordered to be conducted as to the charges levelled against him by appointing Shri Santheesh P. K, Senior Manager, PIR Department.

5. After conducting enquiry the enquiry officer submitted the enquiry report dated 31.05.2008, with the findings that the charges are proved, to the disciplinary authority. The disciplinary authority accepted the findings of the enquiry officer after hearing the workman and imposed the penalty of 'reduction of basic pay by one stage'. Against that order the workman preferred an appeal before the appellate authority and the appeal was dismissed *vide* order dated 10.02.2009 after confirming the order of the disciplinary authority. Hence the union raised this industrial dispute and the same has resulted in this reference.

6. Union after appearance before this tribunal filed claim statement challenging the validity of the enquiry, the findings of the enquiry officer and the penalty imposed on the workman. The validity of the enquiry was challenged alleging that the enquiry was conducted by a loyal official of the management bank in violation of the principles of natural justice. The enquiry was only a farce and the findings of the enquiry officer are totally perverse and not based on legal evidence. The evidence adduced by the workman was not considered by the enquiry officer in the right perspective. Crucial documents which would prove the innocence of the workman were not produced in the enquiry despite of the specific request made by the workman. Clerical staff in the branch who were prepared to give evidence in favour of the workman was prevented by the senior manager and other officers from tendering evidence by threatening them as to the dire consequences. The enquiry was not fair and is vitiated due to non-compliance of principles of natural justice.

7. In the written statement management would deny the allegations in the claim statement challenging the validity of the enquiry and the findings of the enquiry officer. It is contended that the enquiry officer conducted the proceedings as per rules and in accordance with the

principles of natural justice. The workman was given permission to be defended in the enquiry by an advocate. The workman was afforded with the opportunity to cross examine all the management witnesses. The workman was examined as a defence witness and two documents were marked. The findings were entered into by the enquiry officer after a judicial appraisal of all the evidence adduced in the enquiry and also considering the written arguments submitted by the workman. The findings of the enquiry officer were accepted by the disciplinary authority after considering the reply of the workman. The enquiry was conducted in an impartial manner affording every opportunity to the workman to adduce evidence. The workman had participated in the enquiry all throughout without any demur and the allegations raised against the proceedings of the enquiry are not correct. There is no illegality in conducting the enquiry or imposing the punishment on him.

As the validity of the enquiry is under challenge it was being heard treating it as a preliminary issue. One witness was examined from the side of the management as MW1 and the enquiry file was marked as Ext. MI for that purpose.

9. At this stage it is only to be considered whether the enquiry is vitiated due to any bias or non-compliance of the principles of natural justice. There are specific allegations in the chargesheet dated 12.05.2007 as to the misconducts of insubordination, doing act prejudicial to the interest of the bank and misbehaviour towards customers in the bank's premises. After receipt of the detailed reply from the workman enquiry was conducted by appointing MW1 as the enquiry officer. Workman was allowed to be represented by an advocate in the enquiry. Three witnesses examined from the side of the management were allowed to be cross examined by the defence representative. The workman was also afforded the opportunity to adduce evidence. After considering the evidence the enquiry officer found that the charges levelled against the workman were proved. There is no reason to hold that the findings of the enquiry officer are perverse or based on no evidence.

10. The failure of the management to produce some of the documents sought to be produced by the workman is the only reason pointed out by the learned counsel for the workman to invalidate the enquiry. It is true that some documents were not produced by the management as per the request of the workman for the reason that those were not relevant for the purpose of the enquiry. The enquiry officer declined the request of the workman for production of those documents since the same were found not very material. The non-production of the documents which are found to be not relevant by the enquiry officer is not a ground for the invalidation of the enquiry. If those

documents were relevant for the purpose of the enquiry only an adverse inference can be taken while appreciating the evidence. As the findings were entered into by the enquiry officer after having a detailed discussion of the evidence and the same were accepted by the disciplinary authority after affording an opportunity for hearing to him, the enquiry cannot be held to be vitiated for the mere reason of declining the request of the workman for production of some documents which were found not relevant for the purpose of the enquiry.

11. There is no reason to invalidate the enquiry conducted by MW1 against the workman. The findings of the enquiry officer cannot be held to be perverse. Hence the enquiry is found to be valid.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 06th day of February, 2015.

D. SREEVALLABHAN, Presiding Officer

APPENDIX

Witness for the Union NIL

Witness for the Management

MW1 — 11.06.2013 Shri Satheesh P K

Exhibit for the Union NIL

Exhibit for the Management

M1 — Enquiry file

नई दिल्ली, 14 मई, 2015

का.आ. 1051.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जम्मू एंड कश्मीर बैंक लि. प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीचढ़ के पंचाट (संदर्भ सं. 63/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.05.2015 को प्राप्त हुआ था।

[सं एल - 12012/93/2009-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th May, 2015

S.O. 1051.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 63/2009) of the Cent. Govt. Indus. Tribunal - cum - Labour Court, No. 1, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Jammu and Kashmir Bank Ltd. and their workmen, received by the Central Government on 14/05/2015.

[No. L-12012/93/2009 - IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE SHRI SURNDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Case No. ID 63 of 2009. Reference No. L-12012/93/2009-IR(B-I) dated 21.01.2010

Mohd. Abdul Majid Wagey son of Shri Ghulam Rasool Wagey, resident of Hilal Abad Sonawari, District Baramula (J&K)

...Workman

Versus

1. The Chairman, Jammu & Kashmir Bank Ltd. Corporate Headquarters, M.A. Road, Srinagar Kashmir.
2. The Branch Manager, J&K Bank Ltd. Regional Engg. Branch, Hazratbal, Srinagar (J&K)

...Respondents

Appearances :

For the Workman: Shri P.K. Longia Advocate

For the Management: Shri N.K. Zakhmi Advocate .

Award Dated: 07.05.2015

Government of India Ministry of Labour *vide* notification . L-12012/93/2009-IR(B-I) dated 21.01.2010 has referred the following dispute to this Tribunal for adjudication:

Term of Reference:

"Whether the action of the management of J&K Bank Limited in imposing the penalty of discharge of services of Shri Abdul Majid Wagay, S/o Shri Ghulam Rasool Wagay, *w.e.f.* 7.11.2005 is justified? If not, what relief he is entitled to?"

3. On receipt of the reference, notices were issued to the parties. Parties appeared. Workman filed claim statement in which he pleaded that workman applied for the post of orderly on 10.12.1987 with the management and workman specifically mentioned in the application that he was middle pass and could not continue his study further as his parents could not finance due to meagre source of income. On his application in January 1988 he was appointed with the management peon-cum-watchman and *vide* order dated 14.10.1988 the workman was permanent appointed as peon-cum-watchman and confirmed as such *w.e.f.* 14.4.1989 on completion of probation period. Since then workman was performing his duty honestly and diligently.

3. It is pleaded by the workman that there was no occasion for him to submit such certificate as he was not matric pass as submitted by him in his initial application when he was appointed as peon-cum-watchman. He

submitted reply to the charge sheet denying the charges of producing/submitting any matriculation certificate. Management feels dissatisfied and enquiry was ordered. Shri Altaf Ahmad Kachkar, Chief Manager was appointed as enquiry officer and Shri Gulam Hussan was appointed as presenting officer. It is submitted that enquiry was conducted in a slip shot manner and without taking into consideration the evidence produced during the departmental enquiry, gave his enquiry report proving the charges against the workman. The enquiry officer failed to consider the fact that one of the witnesses was the attesting officer of the documents and the other one was the writer of forwarding letter while forwarding the certificate in question to the head office. The enquiry officer failed to appreciate that the alleged certificate came into the possession of the bank in the year 1995 and the management choose to verify the same in the year 2003-204 which is highly objectionable. It is further submitted by the workman that as per version of the witnesses produced by the management during enquiry, the original certificate handed over to them by the workman which was forwarded to the head office in the year 1995. But surprisingly the personal department writing letter on 19-11-2003 to the branch office for obtaining the original certificate which was never submitted by the workman. The workman from the very beginning submitting that he is middle pass but without any record the enquiry officer travelled extra mile to prove the charges. It is also the case of the workman that he was neither under consideration for any promotion and no such communication was ever made, to the workman. It is prayed by the workman that the workman made to suffer without any fault on his part and he may be reinstated in service with full back wages and other consequential benefits.

4. Management filed written statement in which it is submitted by the management that workman submitted a document purportedly a matriculation certificate and mark sheet EXPT/P-2 on 21-2-95 to Zahur Hussian who was a senior functionary of the branch with a request to forward the same to personnel department Central Office for considering his promotion and on the basis of said request the certificate forwarded to the CO Personnel Department *vide* letter Ex. PT/P-1. The said functionary instructed the concerned clerk Mr. Muzaffar Ahmad to prepare the forwarding letter and put before Zahur Hussain along with the certificate furnished by the said Abdul Mazid Wagey who signed the letter and sent to personnel department Central Office, Srinagar *vide* letter dated 29-4-2004. Personnel Department forwarded the same to Joint Secretary (verification) J&K State Board of School Education Lal Mandi Srinagar who returned the verification report *vide* letter dated 15-7-2004 with the report 'fake and fraud'. On the basis of said verification report, the disciplinary proceedings were started against the workman which led the passing of the order of discharge since the said action constituted to be a grave misconduct in terms of Bipartite Settlement para 5(m) which is reproduce below:—

5. By the expression gross misconduct shall be meant any of the following acts of omission on the part of an employee:—

(m) Knowingly making a false statement in any document pertaining to or in connection with his employment in the Bank.

6. An employee found guilty of gross misconduct may

(a) be dismissed without notice or

(b) have his misconduct condoned and be merely discharged.

5. In written statement it is further submitted that management has acted with due diligence, caution and restraint while imposing the punishment of discharge under clause (g) instead of dismissal under clause (a) taking a lenient view. It was also averred in written statement that filing a forge documents with the bank expecting to seek promotion on that basis is a most unwated tendency amongst the staff and until and unless the management deals with the same with an iron hand, otherwise the process of promotion is bound to be polluted and many deserving candidates bound to be adversely effected leading to Industrial unrest. The workman held to be guilty of forging and submitting the forge document to the management for promotion to the next cadre. The inquiry was conducted in a fare impartial and lawful manner. Workman cross examined the management's witnesses Zahur Ahmad as well as Muzaffar Ahmad in departmental enquiry. At no stage the workman expressed any feeling of enmity in between him and aforesaid witnesses. The punishment of discharge his commensurate with the misconduct.

6. The charge sheet dated 11-08-2004 was issued to the workman containing the following charges:—

"Article-I

That you, Mr. Abdul Mazid Wagay (7870) Peon-cum-Watchman were appointed in the services of the bank *vide* order no. Per/Estt/88-7925 dt. 14-10-1988 and at the time of appointment, your educational qualification was middle pass. Subsequently you submitted a matriculation qualification certificate bearing S.No. M 142884 dt. 31-10-1990 purportedly issued by the Chairman, The J & K State Board of School Education, Srinagar, under the covering letter of B/O: Sumbal bearing no. SBL/95-738 dt. 21.2.1995, claiming to have passed the matriculation examination held in Oct-Nov. 1989 under Roll No. 333232.

The said matriculation certificate submitted by you after verification by the J & K State Board of School Education, Srinagar has been detected by them as absolutely fake and fraud and communication to this effect has been sent *vide* their letter no. F(JS-VER) B/KD/RV-269 dt. 15-7-2004.

Therefore it is, obvious that in order to further your interests, you have acted deceitfully and dishonestly by

submitting a fake certificate, This amounts to cheating the institution that provides you bread and butter.

You are thus charge sheeted for the following acts of omission and commission:

(i) Knowingly making a false statement in connection with his employment in the bank.

Amounting to 'gross misconduct' in terms of Clause 5 (m) of Memorandum of Settlement dated 10-4-2002."

7. So far the issue of fairness of enquiry is concerned, this issue has already been decided by learned predecessor *vide* order dated 22-10-2010. The relevant part of order mentioned above is as under:-

"Both of the contents, meaning thereby, procedural lapses and compliance of principle of natural justice have been conceded by learned counsel for the workman in presence of the workman. Meaning thereby, there was no procedural lapse while conducting the departmental proceedings. It is contended by the workman that opportunity of personal hearing was not afforded by the appellate authority. The affects for non-providing the opportunity of personal hearing by the appellate authority shall remain open for the workman to adjudicate in future proceedings."

8. It is further held in the order as under:-

"Thus, as Presiding Officer of the Tribunal, it is my duty to afford the opportunity for adducing evidence to the parties on the following two issues:-

1. Perversity, if any, in decision making of the enquiry officer and the disciplinary authority:-

2. On quantum of punishment.

The affects of non-affording the opportunity of personal hearing by the appellate authority shall also remain open to adjudicate for the workman."

9. On the issue of perversity workman examined himself as WW1 in evidence. On the other hand management on both issues examined MW1 Fida Hussain Shah. So far the contention of the workman regarding personal hearing is concerned, the statement of the workman recorded in this Tribunal is very significant. He admitted in his statement that 'I had personally requested the disciplinary authority only once for right to hearing.' On a question whether he requested the disciplinary authority in person for right to hearing on the date fixed in the case. In answer the workman after 45 second replied that he does not know whether the case was fixed for hearing on that date. Workman also stated that 'No dates were fixed by the disciplinary authority in my case. I received the notice to appear before the disciplinary authority. I personally appeared before the disciplinary authority after receiving notice. I have informed

the disciplinary authority my view point. Thereafter no date was fixed. I have stated every thing to the disciplinary authority and I do not want to say in addition and new before this Tribunal.

10. Management's witness MW1 Fida Hussain Shah stated before this Tribunal during evidence in cross-examination that 'Workman was not due for his promotion. If any peon pass 10th standard even during his service he is eligible for internal process for promotion. At present I have no notification which envisages the internal process of promotion on passing 10th standard. Whenever an employee who has passed any educational qualification during his service wants to get his qualification mentioned in his service book he may applied for the same to the head office for up gradation of record. I do not know whether any application for up gradation of record was given by the workman or not but workman got forwarded matriculation certificate through proper channel to the Central Office for up gradation of record. Letter dated 21-02-95 annexed in enquiry file has been attested by me. Its original not before me at present. This letter has been forwarded by manager branch Sumbal. This letter does not contain the signatures of the workman. I do not remember whether workman applied for up gradation of record on the basis of matric qualification. Had the workman applied with the upgrade qualification he would have been given promotional post and other benefits. Workman submitted his matriculation certificate on 21-02-95. This certificate got verified in the year 2004 when the vacancies arises.' This witness MW1 voluntarily stated in cross-examination that employee can get his service record up gradation the basis of qualification at any time. This witness also stated that there was sufficient evidence to hold that certificate was forged.

11. Taking into consideration the above facts and circumstances and evidence of the parties on the point of perversity and quantum of punishment, as the domestic enquiry has already been held to be fair and proper *vide* this Tribunal order dated 22. 10.2010, the issue of providing personal hearing to the workman is also clear from the evidence of the workman recorded in this tribunal in which it is clear that the workman was afforded personal hearing also. On the point of perversity and quantum of punishment, it is not disputed that it was the workman only who can be benefited by fake and forged certificate. There was no occasion for any body else to prepare, forged the matriculation certificate. It was only in 2004, this certificate was got verified and found to be fake and forged, Therefore, no perversity is found and workman is also not entitled to any relief on the point of punishment as the punishment is commensurate to the misconduct of the workman.

12. The learned counsel for the workman in written arguments relied on the case laws 2014(1) SCT 28 Revinder Pal Singh Vs. State of Punjab & others, 2009 (1) SCT 768

Talbro's Automotive Components Ltd. Vs. Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Faridabad and another, 2012(3) SCT 742 Delhi Transport Corporation Vs. Shyam Singh, and 1995(3) PLR 603 Municipal Corporation Amritsar Vs. Presiding Officer, Labour Court, Amritsar and another. The facts and circumstances are different from the facts and circumstances of the case in hand, therefore, these case laws are not applicable in the case in hand.

13. Considering the facts and circumstances of the case and on the basis of above findings, the workman is not entitled to any relief.

14. The reference is disposed off accordingly. Central Govt. be informed. Soft as well as hard copy be sent to the Central Govt. for publication.

Chandigarh
07.05.2015

S. P. SINGH, Presiding Officer

नई दिल्ली, 14 मई, 2015

का.आ. 1052.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 119/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/05/2015 को प्राप्त हुआ था।

[सं. एल-41012/34/2013-आईआर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th May, 2015

S.O. 1052.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 119/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No.1, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workmen, received by the Central Government on 14/05/2015.

[No. L-41012/34/2013-IR (B-I)]
SUMATI SAKLANI, Section Officer

ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I
CHANDIGARH**

Case No. ID 119 of 2013 Reference No. L-41012/34/2013-IR(B-I) dated 30.10.2013. Shri Mithu Singh son of Shri Barathi, resident of SAS Nagar, Gali No. 1, House No. 28773, Pratap Nagar, Bhatinda-151001 (Punjab)

...Workman

Versus

1. The Divisional Railway Manager, Northern Railway, Ambala Division, Ambala (Haryana).

...Respondent

Appearances :

For the Workman : None

For the Management : Shri N.K. Zakhmi Advocate.

Award Dated: 27.4.2015

Government of India Ministry of Labour vide notification L-41012/34/2013-IR(B-I) dated 30.10.2013 has referred the following dispute to this Tribunal for adjudication:

Term of Reference:

"Whether the action of the management of Northern Railway, Ambala division, Ambala (Haryana) for not given the benefits of Mason Pay fixation *w.e.f.* 14.06.1979 onwards as per the order of Labour Court Bhatinda (Lok Adalat) dated 29.8.1992 as well as MACP (6th pay Commission) in the pay grade pay of Rs. 4200/- is just, valid and legal? If not, to what benefits the workman entitled for and what directions are necessary in the matter?"

2. On receipt of the reference, notices were issued to the parties. Earlier the parties were appearing. Workman filed the statement of claim to which the management filed written statement.

3. The case was adjourned for filing the affidavit in evidence by the workman. The workman attending hearing and did not file any affidavit in evidence. For the last about four hearing the case was adjourned time and again for filing of affidavit in evidence by the workman. None is appearing on behalf of the workman from the several dates. It appears the workman is not interested to pursue the present reference. As the workman is not appearing, therefore, no purpose would be served in keeping the case pending. In view of the above, the present reference is returned to the Central Govt. for want of prosecution.

4. The reference is disposed off accordingly. Central Govt. be informed. Soft as well as hard copy be sent to the Central Govt. for publication.

Chandigarh
27.04.2015

S. P. SINGH, Presiding Officer

नई दिल्ली, 14 मई, 2015

का.आ. 1053.—औद्योगिक विवाद अधिनियम, 1947 का 14 की धारा 17 के अनुसरण में केन्द्रीय सरकार इन्डगरल कोच फैक्टरी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण,

चेन्नई के पंचाट (संदर्भ संख्या 1/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/05/2015 को प्राप्त हुआ था।

[सं. एल-41012/42/2013-आईआर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th May, 2015

S.O. 1053.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1/2014) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of Integral Coach Factory and their workmen, received by the Central Government on 14/05/2015.

[No.L-41012/42/2013-IR (B-I)]
SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Thursday, the 23rd April, 2015

Present :

K. P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 1/2014

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Integral Coach Factory, Chennai and their workman)

BETWEEN

Shri Abhishek Kumar Thakur : 1st Party/Petitioner

AND

The General Manager : 2nd Party/Respondent
Integral Coach Factory
Southern Railway
Chennai-600003

Appearance:

For the 1st Party/Petitioner : Sri R. Lawrence,
Advocate

For the 2nd Party/Respondent : M/s P. Srinivasan,
Advocate

AWARD

The Central Government, Ministry of Labour & Employment *vide* its Order No. L-41012/42/2013-IR (B.I) dated 11-12-2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

"Whether the action of the Management of ICF, Chennai regarding termination of service of Abhishek Kumar Thakur, Lascar is justified or not? To what relief the workman is entitled?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 1/2014 and notice was issued to both sides. Both sides have entered appearance through their counsel and filed claim and counter statement respectively.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner has entered service under the Southern Railway as Lascar on 21.08.2007. He was transferred to ICF in June 2009 and he was posted as Lascar in Chief Engineer's Bungalow. The petitioner was charge sheeted for unauthorized absence for 69 days from 16.12.2010 to 22.02.2011. An enquiry was conducted. Based on the report of enquiry the petitioner was removed from service by order dated 07.10.2011. The order of the Disciplinary Authority is illegal. At the relevant time, the petitioner was having fever. The Chief Engineer had sent the petitioner to Lucknow to fetch his mother from Lucknow. On 15.12.2010 the petitioner had come back with high fever. He had requested for leave and he was granted leave from 15.12.2010 to 19.12.2010. The petitioner had gone for work on 20.10.2010 but he was not allowed to enter the bungalow of the Chief Engineer or do any work. The petitioner had filed revision petition against the order of removal from service but this was dismissed. The enquiry against the petitioner was not conducted in accordance with the principles of natural justice. An order may be passed directing the Respondent to reinstate the petitioner in service with back wages, continuity of service and other benefits.

4. The Respondent has filed Counter Statement contending as below:

The enquiry against the petitioner was conducted in compliance with the procedure and in accordance with the principles of natural justice. At the time of removal from service the petitioner has been working as Lascar attached to Rajendra Prasad, Chief Engineer of ICF. Based on the complaint given by Rajendra Prasad, disciplinary action was initiated against the petitioner for his unauthorized absence from duty for 69 days continuously from 16.12.2010 to 22.02.2011. The petitioner has submitted his written statement of defence and copies of documents relied upon by the Management was sent to him as requested by him. The petitioner has defended his case through a Defence Helper. The Enquiry Officer has entered a report finding that the charge against the petitioner is proved. Based on

the report of the enquiry the penalty of removal from service was imposed on the petitioner *w.e.f.* 07.10.2011. Absence from duty for a long period is a grave misconduct and is indicative of negligence and lack of interest in duty. The petitioner is not entitled to the relief claimed.

5. The evidence in the case consists of documents marked as Ext. W1 to Ext. W15 and Ext. M1 to Ext. M10. No oral evidence was adduced on either side.

6. In the claim Statement the petitioner has raised a contention that the conduct of domestic enquiry was not in accordance with the principles of natural justice. This was heard as a Preliminary Issue and this Tribunal has entered a finding that the enquiry was conducted in a fair and proper manner. So what remains to be considered is the case on merits only.

7. The points for consideration are:

- (i) Whether the Respondent is justified in terminating the service of the the petitioner?
- (ii) What, if any is the relief to which the petitioner is entitled?

The Points

8. The petitioner had entered service of the Southern Railway on 24.08.2007 as Substitute Bungalow Lascar. Disciplinary proceedings had been initiated against him for his alleged unauthorized absence for 69 days from 16.12.2010 to 22.02.2011. The proceedings had been initiated on the basis of the report given by the Chief Engineer that the petitioner has been unauthorizedly absent during the period in question. After departmental enquiry the petitioner was removed from service. In the Claim Statement the petitioner has taken the stand that he has availed leave for few days on account of fever and thereafter he had report for work but he was not allowed to join duty. He has got a further case that he was all along undergoing treatment for fever. Thus he has tried to advance a case that his absence was for valid reasons.

9. The charge against the petitioner states that while working as Sub-Bungalow Lascar to Chief Engineer in the ICF he has committed the misconduct of unauthorizedly absenting from duty for 69 days continuously from 16.12.2010 to 22.02.2011 and has failed to maintain devotion to duty and thereby violated rule 3(1) (II) of Railway Services (Conduct) Rules, 1966.

10. Ex.W4 is the explanation given by the petitioner to the Charge Sheet dated 26.02.2011, on 07.03.2011. He had stated in this that he was having fever from 02.10.2011 itself and he had taken treatment from a Private Doctor at Nungambakkam. He had gone again to the Doctor on 10th. According to him on 10th he was feeling too unwell and

had asked for permission for rest and to approach the Doctor and this was given. It was after this he had gone to the Doctor. On the same day he is said to have been contacted by his Officer and instructed to bring his mother at Lucknow to Chennai. He had gone to Lucknow and had come back on 15th. His fever continued and he had asked for leave for a few days and this was allowed. He availed leave upto 19th and went for work on 20th, but he was not allowed to enter the Bungalow of the Chief Engineer. He is said to have taken treatment from ICF hospital after that as his fever subsisted.

11. The report of Rajendra Prasad, the Chief Engineer given on 19.02.2011 (Page-31 of the typed set of the petitioner) states that the Lascar attached to him is unauthorizedly absent continuously from 16.12.2010 to 19.02.2011 and continued to be on unauthorized absence. It is also stated that he was absent without intimation and without prior sanction of leave. The Chief Engineer has been examined as PW1 in the disciplinary proceedings. He has maintained his stand that the petitioner was unauthorizedly absent for the period in question. The copy of the Muster Roll which is being maintained at the Bungalow of the Chief Engineer exclusively for the Lascar was produced in the disciplinary proceedings and is available for perusal. The petitioner is recorded as absent for the days in question. It has come out during cross-examination of the Chief Engineer that the petitioner had been to Lucknow to bring his mother to Chennai. A copy of the railway ticket for travelling from Lucknow to Chennai (Page-57 of the typed set) would show that the petitioner came back on the morning of 15.12.2010. The evidence given by PW2 is only to state that he had initiated proceedings based on the report given by PW1 regarding the unauthorized absence of the petitioner.

12. The petitioner has produced two prescriptions one from a General Practitioner at Nungambakkam and another issued by the ICF Hospital. Though there is no date in the first one (Page-52 of the typed set). In the latter one the petitioner seems to have been to ICF Hospital complaining of fever on 23.12.2010 and again on 31.12.2010. Some medicines are seen prescribed. These documents are of a time when no action has been proposed up against the petitioner. In the explanation to the Charge Sheet itself the petitioner has stated that he was continuously suffering from fever. As seen from explanation, since the Railway Hospital was some distance away he was asked to approach private doctor nearby and this is said to be reason for going to the private doctor first. There seems to be some basis in the case of the petitioner that he was ill and this was the reason for his absence for some days. When the petitioner was questioned by the Enquiry Officer he has stated that Chief Engineer's spouse did not allow him to go

to the Railway Hospital as it would take more than an hour to go and come back. He has further stated that on 24.12.2010 he had gone to the Bungalow was requested for leave but this was turned down by the Chief Engineer. He has also referred to the removal of the Laskar who worked with the Chief Engineer prior to him, for the same reason. That removal was challenged and reinstatement was ordered as seen from Ext.W2. Again he has stated that subsequently also he was not able to take treatment from ICF Hospital as his wife was pregnant and the Hospital was far away from the residence.

13. The Disciplinary Authority does not seem to have considered the question whether the absence of the petitioner was on account of any valid reason. As could be seen the petitioner has been trying to justify his case through out in his explanation and during his examination in the enquiry proceedings stating that the was ill and for other reasons also he was not able to do the work. If a person is to be turned out from service for unauthorized absence it is not enough that the Management proves that he was absent but it should also be shown that the absence was without any valid reason.

14. On going through Ext.M5 one could find that the Chief Engineer has been ratifying the leave of the petitioner as leave without pay through letter frequently addressed to the Bill Section. Ext.M5 is the advise rendered by the Railway Rates Tribunal in the revision petition filled by the petitioner against the order of removal. As seen from this the Chief Engineer had addressed to APO (Bills) of ICF on 24.12.2010, 05.01.2011, 19.01.2011 and 15.02.2011 to ratify the absence for the period from 16.12.2010 to 24.12.2010, 16.12.2010 to 05.01.2011, 16.12.2010 to 19.01.2011 and 16.12.2010 to 15.02.2011 respectively. As seen from the order giving advise the period from 06.12.2010 to 09.12.2010 and 16.12.2010 to 30.06.2011 also were ratified by the Chief Engineer. The Tribunal has stated that since the leave was ratified as leave without pay, the charge itself is not sustainable. The General Manager, the revising authority has not considered this advise as seen from his order attached to Ext.M5. The stand of the Management is that the order of the Railway Rates Tribunal is only advisory in nature. It is also their case that ratification of the leave as leave without pay is only to keep the records straight and this will not absolve the petitioner of his guilt. Whatever is this, the fact remains that the Chief engineer was throughout on intermittent days requested the Billing Section to treat the absence as leave without pay.

15. Even assuming that the absence of the petitioner was unauthorized, the punishment imposed on him is not in proportion to the misconduct attributed to him. It would have been sufficient if some other penalties were imposed on him retaining him in the post. Now the petitioner is out

of service for more than 4 years and he is sufficiently penalized. The petitioner is entitled to reinstatement in service.

The Respondent is directed to reinstate the petitioner in service with 50% back wages, continuity of service and other attendant benefits. If back wages is not paid within a month of the award, the amount will carry interest @ 9% per annum.

An award is passed accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 23rd April, 2015)

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : None

For the 2st Party/Management : None

Documents Marked:

On the Petitioner's side

Ex.No.	Date	Description
Ex. W1	24.08.2007	Appointment Order
Ex. W2	15.11.2010	Similar case award by Tribunal
Ex. W3	26.02.2011	Charge Sheet
Ex. W4	07.03.2011	Reply
Ex. W5	29.04.2011	Enquiry Proceedings
Ex. W6	05.08.2011	Enquiry findings and documents filed in enquiry
Ex. W7	17.08.2011	Second Show Cause Notice
Ex. W8	15.09.2011	Reply
Ex. W9	27.09.2011	Additional Reply
Ex. W10	07.10.2011	Final order of removal by APO
Ex. W11	23.11.2011	Appeal
Ex. W12	09.11.2012	Appeal disposed by Dy. CE (Appeal)
Ex. W13	23.02.2012	Revision Petition
Ex. W14	29.06.2012	Revision Rejection order by GM (ICF)
Ex. W15	29.08.2013	Conciliation failure report

On the Management's side

Ex.No.	Date	Description
Ex. M1	15.06.2009	Copy of the Office Order

Ex. M2	26.02.2011	Copy of the Memorandum
Ex. M3	—	Copy of the Rule-9 of Railway Servants (disciplinary and Appeal) 1968
Ex. M4	09.01.2012	Copy of the letter
Ex. M5	27.04.2012	Copy of the letter
Ex. M6	12.03.2011	Copy of the letter
Ex. M7	09.05.2001	Copy of the Railway Board's letter

नई दिल्ली, 14 मई, 2015

का.आ. 1054.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंध तंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट संदर्भ संख्या (45/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/05/2015 को प्राप्त हुआ था।

[सं एल-12012/26/2014-आईआर(बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th May, 2015

S.O. 1054.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. 45/2014) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the Industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 14/05/2015.

[No. L-12012/26/2014-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Wednesday, the 29th April, 2015

Present:

K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 45/2014

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of State Bank of India and their workman)

BETWEEN

Sri V. Chandiran : 1st Party/Petitioner

AND

The Chief General Manager : 2nd Party/Respondent
State Bank of India
Local Head Office
College Road,
Chennai-600006

Appearance:

For the 1st Party/Petitioner : Sri M. Baskaran, N.
Deepanandh,
Advocates

For the 2nd Party/Respondent : M/s T.S. Gopalan &
Co., Advocates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12012/26/2014-IR (B-I) dated 29.05.2014 referred the following industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the Management of State of Bank of India, Chennai regarding non-absorption of the petitioner Sri V. Chandiran is justified or not? If not, to what relief the workman is entitled to?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 45/2014 and issued notices to both sides. Both sides have entered appearance through their counsel and have filed their claim and counter statement respectively.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner was first engaged by the Respondent as Substitute Messenger/Watchman from the year 1979. Since then he was working as such continuously with usual break. The petitioner had worked in the Respondent institution for 461 days altogether. He had worked for more than 340 days in the NRI Branch of the Respondent during the year 1995-1997. There was an agreement on 17.11.1987 between the Management and employees. A petition was filed by the temporary messengers before the Supreme Court on the basis of this agreement. As per the agreement temporary messengers who have been sponsored by Employment Exchange were recruited as messengers against regular time-scale of pay. By agreement dated 17.10.1989 the management took steps to regularize the casual labourers

also. The name of the petitioner is also included in the list of candidates interviewed pursuant to the Direction given by the High Court in a Writ Petition filed by the Union. He is assigned the S. No. 716 in the list of persons interviewed. So he is also entitled to be absorbed in the regular vacancies along with other employees whose names are found in the list. The petitioner had approached the Respondent requesting to absorb him in the regular vacancy. His request was turned down by the Respondent. The petitioner filed a Writ Petition before the High Court after this. This Writ Petition was dismissed with a direction to raise the issue before the appropriate forum. The Industrial Dispute is raised accordingly. An order may be passed directing the Respondent to appoint the petitioner as Messenger in accordance with the list for absorption of Temporary Messengers published by the Respondent.

4. The Respondent has filed Counter Statement contending as follows:

The claim of the petitioner is that he was last engaged in March 1997. He had acquiesced to the cessation of his engagement as a temporary messenger and was pursuing his claim for absorption and regularization in terms of the settlements. The present dispute raised in 2011 should not be entertained on the ground of delay and laches. The issue referred for adjudication is not about termination of employment. So the dispute raised by the petitioner in his individual capacity is not maintainable. Certain settlements were entered between the Respondent and All India State Bank of India Staff Federation regarding permanent absorption of temporary employees in the service of the Bank. The last settlement in this respect was made on 30.07.1996. The petitioner was one of the Temporary Messengers engaged by the Nanganallur Branch and the Air Cargo complex Branch, Meenambakkam. He was also empanelled for absorption and regularization and his name appeared as S.No. 716 in the list. Out of the waitlisted categories, candidates upto 357 were absorbed in the vacancies that arose upto 31.12.1994 before the list lapsed on 31.03.1997. With the lapse the engagement of all the candidates in the panel also ceased. The claim of the Temporary Messengers whose names are included in the list is pending in a matter before the Supreme Court. The petitioner cannot make any claim beyond the scope of the settlements entered into between the Respondent and the Staff Federation. In any case, the issue cannot be canvassed before this Court as it is beyond the purview of Section-2A of the ID Act.

5. The evidence in the case consists of oral evidence of WW1 and documents marked as Ext. W1 to Ext. W13 and Ex. M1 to Ext. M8.

6. The points for consideration are:

- (i) Whether the Respondent is justified in not absorbing the petitioner in service.
- (ii) What if any is the relief to which the petitioner is entitled?

The Points

7. The claim of the petitioner is that he had worked as Temporary messenger with the Respondent Bank for a total number of 461 days, that his name was also included in the panel of Temporary Messengers prepared for absorption in the Bank and he is entitled to absorption in the regular service of the Bank.

8. In the Counter Statement the Respondent has raised a contention that the dispute having been raised by the petitioner in his individual capacity, it is not maintainable. Before going into the merits of the case this contention raised by the Respondent is to be examined.

9. Under Section-2A of the ID Act a dispute raised by an individual workman shall be deemed to be an industrial dispute notwithstanding that no other workman or any union of workman is a party to the dispute if the employer has discharged, dismissed or retrenched or otherwise terminated the service of the individual workman and dispute or difference is between the Workman and his Employer and is connected with or arising out of such discharge, dismissal, retrenchment or termination.

10. In the present case the petitioner has raised the dispute in his individual capacity. He is not supported by any union or any group of workmen in his cause. His grievance is not that he was discharged, dismissed, retrenched or otherwise terminated from service by the Respondent. On the other hand his case is that his name also appears in the panel for absorption prepared by the Respondent and therefore he is entitled to be absorbed in the service of the Respondent. The petitioner is not seeking reinstatement in service on the ground that he was illegally discharged, dismissed, retrenched or terminated from service. In fact he has not questioned his cessation of engagement as a Temporary Messenger in the year 1997. In that case the dispute would come under Section-2K of the ID Act in which case the petitioner could not raise the dispute in his individual capacity. So, as contended by the Respondent the dispute raised by the petitioner in his individual capacity is not maintainable. For this reason itself the petitioner is not entitled to any relief.

11. Even on merits the petitioner is not entitled to any relief. The case of the petitioner is that his name also appears in the panel of Temporary Messengers for absorption prepared by the Respondent and therefore he

is entitled to be absorbed. It is not disputed by the Respondent that the petitioner's name also appears in the list. The petitioner has produced Ext. W1 to Ext. W5, the certificates issued by different Officers of the Respondent which would show that he had worked intermittently with the Respondent as Messenger. As seen from Ext. W5 his last engagement was in the Year 1997. Ext. M8 is the list containing the names of Temporary Messengers for absorption. However, it is not that all the persons named in the list are to be absorbed as a must. The temporary employees were classified into A, B & C depending on the duration of their service. As per the last settlement dated 30.07.1996 between the Staff Federation and the Respondent the vacancies that will be arising before 31.03.1997 were to be filled up from the panel of employees. However, the Respondent had absorbed only 357 persons from the panel before the panel lapsed on 31.03.1997.

12. The petitioner has been claiming absorption based on the different settlements and because his name figured in the panel. However as per the settlement itself vacancies upto 31.03.1997 only could have been filled-up from the panel. So, as per the very settlements on the basis of which the petitioner is claiming absorption, he is not entitled to absorption. As seen from the Counter Statement of the Respondent the claim of the Temporary Messengers whose names lapsed on 31.03.1997 is pending before the Supreme Court also. For this reason also the petitioner will not be entitled to any relief.

In the result, the reference is answered against the petitioner. An award is passed accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 29th April, 2015)

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri V. Chandiran

For the 2nd Party/Management : MW1, Sri R. Christopher Devavaram

Documents Marked:

On the petitioner's side

Ex.No.	Date	Description
Ex.W1	02.08.1988	Certificate from the 2nd Party
Ex.W2	10.08.1988	Certificate from the 2nd Party
Ex.W3	26.08.1991	Certificate from the 2nd Party

Ex.W4	13.03.1995	Certificate from the 2nd Party
Ex.W5	13.05.1998	Certificate from the 2nd Party
Ex.W6	14.03.1992	Selection list published by 2nd Party
Ex.W7	12.01.2009	Order in WP No. 24685/2003 and batch
Ex.W8	08.07.2009	Lawyer's notice to 2nd Party
Ex.W9	01.10.2009	Acknowledgment Card
Ex.W10	25.02.2010	Further representation by 1st Party
Ex.W11	-	Acknowledgement
Ex.W12	08.04.2011	Claim Petition filed before the Conciliation Officer
Ex.W13	01.01.2013	Reply by 2nd Party

On the Management's side

Ex.No.	Date	Description
Ex. M1	17.11.1987	Settlement
Ex. M2	16.07.1988	Settlement
Ex. M3	27.10.1988	Settlement
Ex. M4	09.01.1991	Settlement
Ex. M5	09.06.1995	Settlement
Ex. M6	30.07.1996	Settlement
Ex. M7	07.11.1984	Circular No. PER-IR-CIR-161 from Central Office, Bombay-Subordinate Staff Guidelines issued for engagement of temporary employees—and for creation of such a list
Ex. M8	05.02.1992	Staff: Subordinates absorption of temporary messengers bipartite agreements dated 17.11.1987, 27.10.1988 and 09.01.1991 candidates found suitable for permanent absorption in the bank against vacancies arising till December 1994-Madras.

नई दिल्ली, 14 मई, 2015

का.आ. 1055.—औद्योगिक विवाद अधिनियम, 1947 1947 का 14 की धारा 17 के अनुसरण में केन्द्रीय सरकार दक्षिण रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण,

चेन्नई के पंचाट संदर्भ संख्या (87/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/05/2015 प्राप्त हुआ था।

[सं. एल-41012/21/2013-आईआर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th May, 2015

S.O. 1055.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 87/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of Southern Railway and their workmen, received by the Central Government on 14/05/2015.

[No. L-41012/21/2013-IR (B-I)]
SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Thursday, the 30th April, 2015

Present:

K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 87/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Southern Railway Employees Cooperative Credit Society Ltd. and their workman)

BETWEEN

Sri T. Thandesan : 1st Party/Petitioner

AND

The Managing Director : 2nd Party/Respondent
Southern Railway
Employees Cooperative Credit
Society Ltd.
No. 1, Dindigul Road, Rail Coop. Mansion
Post Box No. 9
Trichirappalli-620001

Appearance:

For the 1st Party/Petitioner : M/s. N. Balakrishnan,
Advocates

For the 2nd Party/Respondent : M/s. T.S. Gopalan &
Co., Advocates

AWARD

The Central Government, Ministry of Labour & Employment *vide* its Order No. L-41012/21/2013-IR (B.I) dated 27.09.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the management of Southern Railway Employees' Co-operative Credit Society operating under Divisional Railway Manager/Trichy, in dismissing Sri S. Thandesan is legal and justified?
To what relief the concerned workmen is entitled?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 87/2013 and issued notice to both sides. The petitioner and the respondent has appeared through their respective counsel and filed their Claim and Counter Statement respectively. The petitioner has filed in reply to the Counter Statement.

3. The averments in the Claim Statement in brief are these:

The petitioner has been appointed by the Respondent as Junior Clerk in 1985. He was later promoted as Senior Clerk, Head Clerk and Accounts Assistant. In 2009 he was reverted as Junior Accounts Assistant on false charges. The Assistant Secretary who was later promoted as Managing Director started ill-treating the petitioner on account of his Trade Union activities. Vindictive disciplinary action was initiated against the petitioner in the year 2000 and he was reverted to the post of Junior Accounts Assistant. The petitioner was transferred to Coimbatore vindictively *w.e.f.* 19.09.2003. After four months he was transferred to Trivandrum. While at Trivandrum his punishment of reversion was set aside. The petitioner was again transferred to Trichy on 22.11.2006 on his sustained plea. But he was again transferred to Coimbatore on 16.09.2008. Before transfer to Coimbatore he was not allowed to work in one seat by transferring him from Loco-I Section to Engineering-IV Section and from there again to Loco-I Section, all within a period of 11 months. While at Coimbatore the petitioner was issued a charge sheet dated 07.10.2008 containing false allegations. The petitioner has submitted explanation denying the charges. The petitioner was not given opportunity to peruse the relevant records. Without considering the explanation of the petitioner an additional memo was issued on 09.06.2009 alleging that he has divulged official matters to others. The petitioner was not shown any registers or records connected with and relevant to the allegations in the first charge memo except the loan ledger. The petitioner was not served with the list

of documents relied on by the Management also. An enquiry was conducted against the petitioner against the principles of natural justice. After farce of an enquiry the Enquiry Officer Submitted report against the petitioner and the disciplinary sub-committee issued an order removing the petitioner from service *w.e.f.* 26.08.2010. The appeal submitted by the petitioner was dismissed. The Board has modified the order of removal to order of dismissal. The order of dismissal is without any basis. The petitioner is entitled to be reinstated in service with continuity of service, back wages and all other attendant benefits.

4. The Respondent has filed Counter Statement contending as follows:

The object of the Respondent Society is to raise funds, lend money to its members at interest with security, invest the surplus money in funds, encourage thrift, self-help and cooperation among the members. The members of the Society consists of the employees of Southern Railway covering the staffs of Tamil Nadu, Kerala, Puducherry and part of Karnataka. Once an employee is admitted to the membership of the Respondent Society, a fixed percentage of his basis salary is deducted every month towards Compulsory Monthly Thrift Deposit. When a member applies for loan, he should procure security by means of two sureties from co-employees. The employees of the Respondent attend to the work relating to processing of loan application, arranging for sanction of loan and also monitor the recovery of loans. The Respondent has issued office orders specifying how the issue of non-recovery of loans should be dealt with. The petitioner had joined the Society as Junior Clerk in 1985. In 1993 he was subjected to disciplinary action and was demoted Earlier his increment was withheld for one year without cumulative effect for leaving his place of work without permission. On 23.01.2009 he was reverted as Junior Accounts Assistant for unauthorized absence. On his representation, the punishment was rescinded and he was restored to the position of Senior Clerk. In the year 2000 he was reprimanded for misbehaving with a Chief Executive. The petitioner was by nature negligent in the discharge of his work. He was defiant to his superiors also. The Respondent used to issue Office Order periodically on matters pertaining to collection of overdue arrears. Between 23.11.2006 and August 2008 the petitioner was assigned the work of monitoring of Ledger Folio of 500 members of Loco-I Section. In the middle of September, 2008 a Senior Section Officer under whom the petitioner was working made a complaint of neglect of duties on the part of the petitioner in respect of 19 instances. In the case of Joseph Regina, the petitioner had failed to take action by sending revised

Debit Statement to the pay-bill preparing authority. He failed to send letters to the concerned member and the sureties also. In the case of Gopi who left service under VRS the petitioner failed to send settlement advice in time to the Railway Authorities and thereby the Society's loan due amounts were not recovered at the time of settlement of the loanee. In the case of Clifford D'Souza the petitioner failed to make recovery from May to October, 2008. The petitioner failed to send the Revised Debit Statement to pay-bill preparing authority in time in the matter of Karuppan, Bhuvanesan, R. Subramanian and Pradeep also. In the case of M. Subramanian who expired the petitioner failed to take action to settle his account. In the matter of Revindran no recovery was effected from February to August, 2008 and no Revised Debit Statement was sent to the pay-bill preparing authority also. Letters were not sent to the member and sureties also. In the case of Jagannathan recovery was not made from June to August, 2008 and no action was initiated for recovery of the loan also. In the case of Sekar who expired no follow-up action was taken to settle the dues for a long time. In the case of Sukumaran and Anil who were removed from service action was not taken to settle the dues, for a long time. In the case of Munirathnam, recovery of loan instalments were not effected from May to September, 2008 and no action was taken also. In the case of Saravanan who had taken loan in January 2008 no recovery was effected from April to August, 2008 and no intimation was given to pay-bill preparing authority or member or sureties also. In the case of Rajan and Hasan Sharif who had availed loan and defaulted in loan payments also no steps were taken for recovery. In the case of P. Balasubramanian who voluntarily retired from service no action was taken to settle the dues till September, 2008 even though settlement amount was received from the Railway in February, 2008. As a result of inaction on the part of the petitioner, apart from other consequences a sum of Rs. 1,07,259/- could not generate any income to the Society. A charge sheet was issued to the petitioner listing out the above 19 instances and charging him with the misconduct of neglect of work and violation of Office Orders. He did not give any satisfactory explanation for the lapses on his part. An enquiry was conducted against him and the disciplinary committee had passed orders awarding punishment of removal from service. The order of the committee is perfectly justified and is valid in law. Enquiry against the petitioner was conducted in a fair and proper manner and is not any way vitiated. Without prejudice to this stand, the Respondent also seeks leave to lead evidence on merits of the charges. An order may be passed upholding the punishment of removal awarded to the petitioner.

5. The petitioner has filed rejoinder denying each of the 19 charges given in the Counter Statement and also reiterating his case in the Claim Statement.

6. The evidence in the case consists of oral evidence of WW1, MW1 and also documents marked as Ext.W1 to Ext.W7 and Ext.M1 to Ext.M39.

7. The points for consideration are:

- (i) Whether the action of the Respondent in dismissing the petitioner from service is legal and justified?
- (ii) To what relief, if any, the petitioner is entitled?

The Points

8. The petitioner who had joined the service of the Respondent as Junior clerk was working as Accounts Assistant when disciplinary proceedings had been initiated against him and he was dismissed from service on the basis of the report of the Enquiry conducted against him. The dispute is raised challenging the order of dismissal.

9. The Respondent is a Society with the employees of Southern Railway as members. The Society raise funds, lend money to its members at interest with security and invest the surplus money in funds. An employee of the Southern Railway gets membership in the Society by deposit of Rs. 10/- as Share Capital. Once he is admitted as a member a fixed percentage of his basic salary is deducted every month towards Compulsory Monthly Thrift Deposit. A member will be given loan on furnishing security by means of two sureties who are co-employees. The member will be authorizing the Railway to recover loan in monthly instalments by deduction from the salary and directly remitting it to the Society. The work of the employees of the Society include processing of loan application, arranging for the sanction, monitoring the recovery of loans, etc. The petitioner has been attending to the issue of loans and recovery in the Society. According to the Respondent the Society used to issue Office Orders on matters pertaining to collecting of overdue arrears as well as duties and responsibilities of staff on overdue collection.

10. The allegation against the petitioner is that he has failed to note the overdue cases in the OD Register in 13 cases, he has failed to send registered notices and revised debits, failed to take action in the VRS cases, failed to take follow-up action on receipt of settlement amount from the department and also failed to take further action after the papers were sent to settlement section in the case of some employees removed from services. The names of the concerned employees in whose case default has been committed by the petitioner and the nature of default or omission amounting to misconduct have been detailed in the Charge Memo given to the petitioner. The petitioner had submitted his explanation for the Charge Memo.

11. In the Claim Statement the petitioner has contended that the departmental enquiry has not been conducted in a fair and proper manner. In view of this contention, the Respondent has taken the stand that even while justifying the departmental enquiry he may be permitted to adduce evidence before this Tribunal in support of the charges framed against the petitioner and this has been allowed. It is accordingly the evidence was let in before this Tribunal. The counsel for the Respondent has stated that he is not relying upon the enquiry proceedings but only on the evidence adduced before this Tribunal only to justify his case. This amounts to implied admission that domestic enquiry has not been conducted in a fair and proper manner. Only the evidence let in before this Tribunal is referred to for adjudication of the dispute.

12. Ext.M5A is the Charge Memo that has been issued to the petitioner on 07.10.2008. Prior to this Charge Memo on 02.09.2008 another Charge Memo seems to have been issued to the petitioner, also on account of his alleged failure to take action on overdue cases and this Charge Memo is marked as Ext.M8A. It has been pointed out by the counsel for the petitioner that several of the instances given in Ext.M5A have not been given in Ext.M8A though these instances also were there even on the date of Ext.M8A if the case of the Management is taken into account. According to the counsel, it is possible that manipulation has been done for the purpose of Ext.M5A. It has also been pointed out by the counsel that two instances of failure shown in Ext.M8A has been shown again in Ext.M5A which according to him is not legal or justifiable. Ext.M8A gives 10 instances of failure to take action in overdue cases. Ext.M8E is the explanation given by the petitioner in this respect. Ext.M8C is the order stating that the explanation is not satisfactory and the Disciplinary Sub-Committee for Staff have decided to award "severe warning" to the petitioner for failing to take proper action in overdue cases and failure to send registered notices to the members and the sureties in many cases. There is also a direction to record the action taken, in the Service Book of the petitioner. S.No. 6 in Ext.M8A is in respect of one M Subramanian and S.No 9 in the same is in respect of one K. Sukumaran. The names of these persons appear as S.Nos. 9 and 13 in Ext.M5A. Thus it could be seen that though the petitioner was proceeded against for the failure to take action in respect of these persons by Ext.M8A action has been initiated by Ext.M5A also regarding these persons. It is on account of this it has been pointed out by the counsel for the petitioner that it is not proper. The argument that is advanced on behalf of the Respondent is that warning is not punishment at all and therefore the Management was justified in referring to the instances of failure regarding the above two persons in Ext.M5A. I do not think there is any merit in the argument advanced. It is after the consideration of explanation given by the petitioner to Ext.M8A, Ext.M8C order has been issued by the Managing

Director on behalf of the Disciplinary Sub-Committee. Severe warning given by the Managing Director to the petitioner amounts to punishment itself, the same having been recorded in the Service Book of the petitioner. So the action taken by the Management by Ext.M5A in respect of M. Subramanian and K. Sukumaran is not proper and need not be considered. S.No. 7 in Ext.M5A is one Devadas. The allegation is that the petitioner has entered in the OD Register that settlement advice was sent whereas in the Tabbal Register he has not mentioned the same. However, it was later noticed that this allegation is without basis and the charge in this respect has been dropped. So there is no necessity to look into this allegation also. Apart from the three mentioned above there are sixteen cases of failures referred to in the Charge Memo. Each of these allegations are to be examined separately to find out if the charges have any foundation or not.

13. Before examining the instances of failures referred to in the Charge Memo the argument advanced on behalf of the petitioner that the petitioner was not sure under which provision he has been proceeded against is to be examined. According to the counsel for the petitioner, the petitioner has been supplied with copies of old bye-laws relating to service conditions and he was not in a position to know under which bye-law he has actually been proceeded against. On going through the Charge Memo it could be seen that the petitioner is proceeded against under Special Bye-law No. 12. The petitioner seems to have been supplied with the Special Bye-laws also as seen from the set of documents produced.

14. MW1 who was working in the Respondent Society has given evidence to prove the charges against the petitioner. He has stated that the petitioner who was working in the Ledger Section at Head Office, Trichy was looking after about 500 accounts of Loco Section A Section Officer in the Ledger Section has to monitor the Overdue Account Statement prepared by the concerned Ledger Clerk and if any of the Overdue Accounts are omitted to be mentioned in the statement he will have to prepare the statement of such OD Accounts and take further action. MW1 who was the Senior Section Officer-Incharge of Loan Ledger Section had prepared a statement of Omitted Overdue Accounts on 08.05.2008. It was on the basis of the said report disciplinary action was initiated against the petitioner. In his affidavit the MW1 has referred to each of the Omitted Overdue Accounts.

15. The first reference is in respect of account of one Joseph Regina who is referred to as S.No.1 in the Charge Memo. This employee was sanctioned a loan of Rs. 90,000/- on 07.02.2008. As per the Charge Memo and the Proof Affidavit of MW1 the petitioner has not effected any recovery and also failed to make Non-Credit Entry in the Loan Account from May 2008 to December 2008. It is further stated that the petitioner has failed to take action

by sending revised debit statement to the Pay Bill Preparing Authority besides failing to send letters to the concerned member as well as the sureties and the Pay Disbursing Officers demanding reasons for non-recovery. In his Proof Affidavit the petitioner examined as WW1 has stated that when recovery postings pertaining to June 2008 were completed before his transfer to Coimbatore recoveries of May and June only were not made and there was no necessity for sending registered notices to the sureties or to make entry in the OD Note.

16. During his cross-examination the petitioner has admitted that the circulars issued by the Society on recovery of loan will be given to each section. He also admitted that he had occasion to see the circulars marked as Ext.M5(o), Ext.M6 and Ext.M7. All these circulars are issued pointing out the importance of overdue collection. Ext.M7 is the last of the series and is repetition of Ext.M5(o). Duties and responsibilities of staff on overdue collection are specifically given in this. As per this the Staff should send a registered letter to the member concerned and sureties alongwith intimation letter to the Pay-Bill Preparing Officers for effecting overdue recoveries through their salaries when 12 consecutive recoveries are not made from a member. If no recovery was made even after a registered notice is served, the staff will send another registered notice after three months or six months time as the case may be for effecting recovery from members or sureties, alongwith intimation to Pay-Bill Authority. It is further stated that on going through the ledgers on completion of recovery postings if any non-recovery is found the employee should take immediate action by way of sending revised debit statements to the concerned Pay-Bill Preparing Authorities to effect recovery from the salary and if no recoveries were made and credited towards loan for a period of three or four or six or eight months, the staffs would send revised debit and the reason for non-recovery alongwith intimation to the party. The petitioner having occasion to go through these circulars certainly must have been aware of the manner in which the action was to be taken for recovery of the dues.

17. During his cross-examination the petitioner has admitted that if there is no recovery in respect of loan of any member in any month a revised debit advice will be sent to the Railways. He further stated that whenever revised debit advice is sent it will be recorded at the right hand top corner of the ledger folio of the member. The petitioner has admitted that Ext.M25 is the copy of the Ledger Folio in respect of Joseph Reino. He also admitted that on 07.02.2008 Joseph Reino has taken a loan of Rs. 90,000/- and no recovery was made during May 2008, but he did not make any endorsement in the Ledger Folio of having sent any revised debit note. He further stated that he has not taken any steps for recovery of the amount until he was transferred on 19.09.2008.

18. The name that figures next in the Charge Memo is that of Gopi who had taken a loan of Rs. 60,000/-. It is alleged that the petitioner failed to close the account of this member though he retired on VRS on 19.12.2007. MW1 has stated in his Proof Affidavit that it was noted in letter that Gopi retired on VRS. However, the petitioner failed to send settlement advice to the Railway authorities and so Society's loan amounts were not recovered from the loanee and the amount had to be recovered from the sureties. Referring to Gopi what the petitioner has stated in the Proof Affidavit is that MW1 received Office Order regarding termination of Gopi only on 04.01.2008 but on hearing about the VRS from Gopi's colleagues he had sent letter of dues and status to Consumer Loan Section on 31.12.2000 itself and on receipt of details from the Section he had sent settlement advice on 17.01.2008. According to him awaiting receipt of settlement amounts from Railways till his transfer he could not close the account. He admitted during his Cross-Examination that at the time of closing of accounts of Gopi after adjusting compulsory thrift deposit and share capital the outstanding loan amount of Rs. 8,800/- and the un-cleared amounts were recovered equally from the two sureties. So it is clear that in this matter also there was lapse on the part of the petitioner.

19. The next lapse alleged is that of Clifford D'Souza who had availed loan of Rs. 90,000/-. It is alleged that no entry was made in the OD Register and the petitioner failed to send revised debit advise to the department and notices to the sureties. MW1 has stated that no recovery of loan instalment was made from May 2008 to October 2008 and yet revised debit statement was not sent to the Pay-Bill Preparing Officer. According to the petitioner, at the time of completion of recovery postings of June 2008 recoveries for May and June alone remained and so action was not required. He admitted during cross-examination that recoveries were not made from May to October 2008 but only in November 2008. The petitioner has not taken any action prior to November 2008, thus justifying the charge in this respect.

20. Karuppan, another member has taken loan of Rs. 75,000/- and recovery was not effected from September 2007. The petitioner is said to have failed in sending the revised debit statement to the Pay-Bill Preparing Authority in time and he sent it only on 18.03.2008. Even in his Proof Affidavit the petitioner has stated that though Karuppan died in August 2007, Office Order of termination dated 20.09.2007 was received by the office only later. During cross-examination he admitted that revised debit advise was sent on 18.03.2008 only and the account was closed only on 24.11.2009. It was the duty of the petitioner to send the revised debit statement to the Pay Bill Preparing Authority if he was not aware of the death of the member. However, this was not done.

21. In the matter of Bhuvanesh who had taken a loan of Rs. 50,000/- recovery was not effected from May 2008 to

September 2008. The petitioner is said to have failed in sending revised debit statement to the Pay Bill Preparing Authority. According to the petitioner, recoveries for May and June alone remained and the revised debit statement was sent on 18.03.2008. However, during cross-examination he admitted that though there was no recovery from May to September 2008 revised debit statement was sent only on 15.09.2008. Thus the charge in this respect also is justified.

22. In the case of R. Subramanian who had taken a loan of Rs. 90,000/-, the charge is that no entry was made in the OD Register and the petitioner had waited for 11 months to send revised debit statement. It is stated that he did not send letters to the concerned member or the sureties also. As seen from the Proof Affidavit of the petitioner revised debit statement was sent on 05.04.2008 immediately after completion of recovery postings for December 2007. According to him, at the time of completion of June 2008 recovery postings, only seven months have lapsed. According to him, he had time till September for follow up action but he was transferred in the meanwhile so there was no lapse on his part. He admitted during cross-examination that no recovery for the period from December 2007 to November 2008 was made and no revised debit statement was sent till he was transferred on 19.09.2008.

23. S.No. 10 in the charge is K.P. Ravindran who was given loan of Rs. 85,000/-. It is alleged that no entry was made in the OD Note Register and though there was no recovery from February 2008, revised statement was sent only on 16.06.2008, 17.06.2008 and 24.07.2008. It is stated that not only the petitioner had failed to send revised debit statement but failed to send letters to the concerned members as well as sureties and the Pay Disbursing Authority requesting reasons for non-recovery. As could be seen from the admission of the petitioner in cross-examination though there was no recovery from February to August 2008 revised debit statement was sent only on 16.06.2008 followed by two more such statements.

24. In the case of P.K. Pradeep who was granted loan of Rs. 65,000/- it was alleged that no entry was made in the OD Note though recovery was not effected from November 2006 to September 2007. Revised debit statement is said to have been sent only on 05.04.2008 after a lapse of 11 months. No letters were sent to the concerned member, sureties or the Pay Disbursing Authority also. The petitioner has explained in his Proof Affidavit that he had sent revised debit statements on 12.01.2007 and 08.02.2007 since there was no recovery from November 2006 to January 2007. He is said to have sent letter on 13.04.2008 since there were no recoveries from December 2007 to March 2008 also. Thus he seems to have acted in time in this respect. In fact the counsel for the Respondent did not challenge the explanation given by the petitioner in his Proof Affidavit.

25. In the matter of K.P. Ravindran who had availed loan of Rs. 85,000/- recovery is said to have been not effected from February to August 2008. It is alleged that the petitioner had failed to send revised debit statement to the Pay Bill Preparing Authority or to send letter to the concerned member or the sureties and the Pay Disbursing Authority. The petitioner has explained in his Proof Affidavit that he had sent revised debit statements on 26.06.2008, 17.06.2008 and 24.07.2008. It is clear that the statement was sent with much delay only.

26. In the case of Jagannathan the allegation is that there was no recovery towards his loan of Rs. 85,000/- from June 2008 to August 2008 and yet revised debit statement was not sent and letters were not sent to the member, sureties and Pay Bill Preparing Authority also. According to the petitioner, recovery postings for July 2008 would commence after September 2008 only and so there was no lapse on his part. It is clear from the Proof Affidavit as well as from the cross-examination that he did not send revised debit statement though there was no recovery for the period from June to August 2008.

27. In the case of Sekar who expired on 27.02.2008 though steps for settlement was taken on 26.03.2008, the petitioner had failed to take further action until 19.09.2008. According to the petitioner Office Order of termination dated 28.04.2008 was received by the Society only after his transfer and so there was no lapse on his part. There is no challenge to his explanation given by the petitioner. There seems to be no lapse on the part of the petitioner in this respect.

28. In the matter of T.P. Anil who was removed from service on 11.02.2006 the petitioner is said to have not taken any action for settlement of the loan account till 19.09.2008 though the petitioner joined Tiruchirappalli on 28.11.2006. According to the petitioner the loan file was with another Section Officer who was close acquaintance of T.P. Anil. The petitioner has claimed that he was not able to pursue the matter on instruction from the said Section Officer. It is clear from the Proof Affidavit and admission of the petitioner during cross-examination that he did not take any action for recovery of the amount. The explanation given by him for failure to take action is not satisfactory.

29. In the case of Munirathnam in respect of whose loan there was no recovery from May 2008 also the petitioner is alleged to have failed to make entry in the OD Note and to take any action. The petitioner had admitted during his cross-examination that there was no recovery from May to September 2008 and yet revised statement was given only on 15.09.2008 thus admitting that there was lapse on his part in taking action.

30. In the matter of R. Saravanan who had availed loan of Rs. 75,000/- it is alleged that there was no recovery from April to August 2008 and yet revised debit statement was not sent to the Pay-Bill Preparing Authority and letter was

not sent to the borrower and the sureties also. The petitioner had admitted that in spite of absence of recovery from April to August 2008 revised debit statement was sent only on 15.09.2008.

31. In the matter of A. Raja who had availed loan of Rs. 75,000/- also absence of action is alleged against the petitioner in spite of non-recovery from May 2008. The petitioner had admitted during his cross-examination that there was no recovery from May to August 2008 and yet he did not send any revised debit statement at all. Thus it is clear that there was lapse on his part.

32. In the case of Hasan Sharif who had taken a loan of Rs. 1,00,000/- and there was no recovery from May to October 2008 also absence of action is alleged against the petitioner. The petitioner had admitted during his cross-examination that he did not send any revised debit statement in spite of non-recovery.

33. In the matter of Balasubramaniam who had left the service on Voluntary Retirement Scheme on 15.12.2007 it is alleged that no action was taken to settle the account. Settlement was effected on 03.11.2008 only though settlement amount was received from Railway in February 2008. So in this respect also there is delay.

34. Out of the 19 instances of failures mentioned in the charge, one was dropped by the Management itself and three are matters for which action was already taken by the management. Regarding two matters there was no failure on the part of the petitioner in taking action. In the remaining 13 cases the petitioner had failed to take action in time or no action was taken at all as discussed above.

35. The Respondent had produced certain documents to prove that the past conduct of the petitioner while he was in office also was not satisfactory. Ext.M1 is the order dated 05.11.1993 withholding increment of the petitioner for a period of one year for remaining outside the office during working hours. Ext.M2(c) is the order reducing the scale of pay of the petitioner for negligence in discharging his duties. Ext.M2(a) is the charge memo on the basis of which the punishment was imposed. The charges include failure on the part of the petitioner to take steps to close the account of a retired member, failure to take action on a loan application and wrongly noting the amount in the case of an account while closing the same and also failing to make payment to the actual person by paying to the wrong person. By Ext.M2(d) order the punishment as per Ext.M2(c) was reduced to one of censure. Ext.M3(a) to Ext.M3(d) are documents pertaining to the charge of habitual absence of the petitioner. He is seen reverted to the post of Junior Accounts Assistant by Ext.M3(c) order on account of his habitual absence. By Ext.M3(g) order the punishment of reversion was cancelled after he had undergone punishment for 11 months. It could be seen that the finding of negligence was retained even though

punishment was cancelled, the petitioner having undergone the punishment for some months. Ext.M4(a) and Ext.M4(b) are the Charge Memos for unauthorized absence. By Ext.M4(c) order the petitioner was again reverted to Junior Accounts Assistant. Thus it could be seen that the petitioner had undergone disciplinary proceedings earlier also and was punished on several occasions. Out of this those that are more relevant are Ext.M2(a) and Ext.M3(c) in which the punishment was imposed on the petitioner for his negligence in duties. As could be seen from the enquiry report which is marked as Ex.M3(c) there was failure on the part of the petitioner on earlier occasions to complete recovery postings in time and this charge was also found proved as seen from the report of enquiry (Page-46) of the typed-set of the Respondent. It was on account of this also the punishment of reversion was imposed on him as per Ext.M3(e) order. Thus, it could be seen that on earlier occasions also the same kind of lapses were noticed on the part of the petitioner and he was proceeded against and punished also for such lapses.

36. By Ext.M22 order the petitioner was removed from service as the charges were found proved. The Appellate Authority had modified the punishment to one of dismissal from service. Having found that there were lapse on the part of the petitioner, that most of the charges except a few are proved, what is left to be considered is whether the punishment of dismissal from service imposed on the petitioner is proper and commensurate with gravity of the misconducts alleged. It is to be noticed that there is no case for the Management that there was any misappropriation on the part of the petitioner. The charge is that he had been so negligent in his duties that he had failed to take action in several of the accounts handled by him. There is the fact that on previous occasions also there were such lapses on the part of the petitioner and he was punished. But in spite of that the punishment of dismissal from service seems to be one not in proportion charge alleged. So I am inclined to modify and reduce the punishment.

Accordingly, the punishment imposed on the petitioner is modified and reduced to Compulsory Retirement from service with all the benefits attached to the same.

The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 30th April, 2015)

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner	WW 1, Sri T. Thandesan
For the 2nd Party/Management	MW1, Sri A. Elangovan

Documents Marked On the petitioner's side

Ex.No.	Date	Description
Ex. W1	14.12.2009	Show Cause Notice issued by the Respondent Society to the petitioner
Ex. W2	22.12.2009	Explanation submitted by the petitioner
Ex.W 3	06.09.2010	Letter of the petitioner addressed to the Chairman of the Respondent Society requesting supply of a copy of updated Special Bye-Law and payment of T.A. and D.A. to enable him to attend the enquiry.
Ex. W 4	06.09.2010	Notification circulated by the Respondent Society
Ex.W5	08.09.2010	Paper publication made by the Respondent Society in "Dinamalar" Trichy
Ex.W6	04.08.2011	Notice to all staff members and other members of the Society circulated by the Managing Director of the Respondent Society
Ex.W 7	2002-2008	Frequent transfer orders issued to the petitioner-6 in number

On the Management's side

Ex.No.	Date	Description
Ex.M1	05.11.1993	Office Order No. 70-Punishment — Increment withheld for one year (Non-Recurring) for remaining outside office during working hours on 01.04.1993 (On Memo dated 01.04.1993 and Charge Memo dated 12.04.1993—Explanation and Enquiry conducted — Enquiry Report dated 18.09.1993 (copy attached)
Ex.M2(a)	12.04.1993	Charge Memo to the Petitioner for negligence in discharge of his duties
Ex.M2(b)	—	Findings of the Enquiry Officer —Mr. V. Sundaram (Deputy Registrar— Retired)

Ex.M2(c)	31.12.1993	Office Memo No. 101 — for proven charges of misconduct in respect of Charge Memo dated 12.04.1993 — Punishment—Demoted from Sr. Clerk to Clerk and with reduction of pay in Clerk's scale for three years			and designated the petitioner as Accounts Assistant duly fixing his salary in that pay-scale — <i>w.e.f.</i> 10.12.2011 (after undergoing the punishment for IIMS)
Ex.M2(d)	01.07.1994	Office Order No. 22 — On Appeal dated 19.01.2014 by the petitioner the punishment awarded in O/O 101 dated 31.12.1993 was cancelled and reduced to one of "Censure"	Ex.M4(a)	26.12.2008	Memo for unauthorized absence — CCS/Admn./12/08 (23.12.08 and 22.12.08)
Ex.M3(a)	14.03.2000	Charge Memo — habitual absence — and failure to complete recovery postings	Ex.M4(b)	02.01.2009	Additional Charge Memo—for unauthorized absence—CCS/Admn./1/2009
Ex.M3(b)	27.04.2000	Charge Memo — Misbehaviour with Chief Executive on 25.02.2000 and placed under suspension and on 26.04.2000 on the petitioner's instigation two unknown person entered the Chief Executive's room and threatened him to put the petitioner back on duty	Ex.M4(c)	23.01.2009	Office Order No. 236—Punishment —Reversion as Junior Accounts Assistant — <i>w.e.f.</i> 23.01.2009 and re- fixing his salary
Ex.M3(c)	17.10.2000	Findings of the Enquiry Officer—Mr. A. Shanmugasundaram — Advocate—Tiruchirapalli — on the Charge Memo dated 14.03.2000 for (i) absent from duty and (2) failure to complete recovery postings in time and on the Charge Memo dated 27.04.2000 for indecent misbehavior on 25.02.2000 and 26.04.2000	Ex.M4(d)	21.09.2010	WPNo. (MD) No. 5r000/2009— filed by petitioner—common Order by the Hon'ble Madurai Bench of Madras High Court dated 21.09.2010 —Extract of Page No. 1, 13, 19, 20 and 24 —W. P. — Stand dismissed
Ex.M3(d)	18.10.2000	Memo—No. CCS/Admn./10/2000—proposing punishment of termination of service and calling for the petitioner's representation	Ex.M5(a)	07.10.2008	Charge Memo issued to the petitioner for failure to take action on overdue cases and failure to send notice to non-recovery cases and to sureties etc.
Ex.M3(e)	20.12.2000	Office Order No. 127 — Punishment — Petitioner reverted to as Junior Accounts Assistant and fixing him in that scale —effective — 15.12.2000	Ex.M5(b)	—	Complaint of Sr. S.O. — Ledger
Ex.M3(f)	05.12.2001	Appeal/Representation of the petitioner to cancel the punishment etc.	Ex.M5(c)	23.02.2010	Notice of Enquiry — Posting the enquiry on 04.03.2010
Ex.M3(g)	07.12.2001	Punishment awarded by O/O 127 dated 20.12.2000 cancelled	Ex.M5(d)	16.02.2010	Memo from the Respondent to the petitioner — re-enquiry — Appointment of EO; M.R.
			Ex.M5(e)	04.03.2010	Reply from petitioner to the Respondent for letter of 16.02.2010 calling for documents —etc.
			Ex.M5(f)	18.03.2010	Reply memo from the Respondent to the petitioner furnishing documents called for in the letter of 04.03.2010
			Ex.M5(g)	24.03.2010	Letter from petitioner to Enquiry Officer — to allow to engage a Defence Helper — a Retired Railway Co.Op. Society Employee

Ex.M5(h)	31.03.2010	Reply of Enquiry Officer to the letter dated 24.03.2010 of the petitioner —reg. — Defence Helper and— postponing the enquiry to 12.04.2010 from 09.04.2010		28.05.2010	Further issues raised by CSE — Enquiry adjourned to 10.05.2010 (EO, MR, CSE — present) Proceedings of Enquiry — Intl. Page 22 to 35 (EO, MR, CSE— Present)
Ex.M5(i)	04.04.2010	Letter from the petitioner to Enquiry Officer to postpone domestic enquiry till receipt of details	Ex.M5(o)	08.04.2002	Office Order No. 3—Detailing importance of overdue collection, duties and responsibilities of staff on overdue collection
Ex.M5(j)	19.04.2010	Reply from EO to the petitioner — Enquiry postponed from 12.04.2010 to 26.04.2010 —cb requested by the petitioner	Ex.M6	12.10.2004	Office Order No. 49—issued by Respondent
Ex.M5(k)	30.04.2010	Reply of the Respondent to the petitioner furnishing SPL Bye-Law copy	Ex. M7	14.10.2004	Office Order No. 50 —issued by Respondent
Ex.M5(l)	03.05.2010	Letter from Respondent to Petitioner and E.O.—informing change of Management Representative (since earlier M.R. had retired from service)	Ex. M8(a)	02.09.2008	Charge Memo issued to the petitioner—CCS/Admn./2008—Failure to take action for overdue casers — etc.
Ex.M5(m)	10.05.2010	Petitioner's letter addressed to E.O. — furnishing certain details—approaching RTI—requesting to postpone the enquiry	Ex. M8(b)	16.09.2008	Explanation of petitioner — and assuring to be more careful in future duly initiating prompt action and to excuse him this time
Ex.M5(n)	04.03.2010 and 24.03.2010 12.04.2010 and 26.04.2010	Proceedings of enquiry (EO., M.R; CSE.) (Internal Pages 1 to 12) → Continuation on 09.04.2010 Enquiry on 09.04.2010 — adjourned to 12.04.2010 (Internal Page—12) Continuation of the proceedings of enquiry (Internal Pages 13 to 14) — Documents called for by CSE already furnished—but still to give a further opportunity to the CSE — Enquiry adjourned to 10.05.2010 (EQ. MR, CSE— Present)	Ex.M8(c)	11.12.2008	Office Order No. 222— Awarding punishment of "Severe Warning" for failure to take action on overdue cases— and failed to send notices to members and sureties
	10.05.2010	Since raised some issues— enquiry adjourned to 21.03.2010 (Intl. Page 15-16) —Enquiry adjourned to 21.05.2010 (EO., MR., C.S.E., Present)	Ex. M9	—	Southern Railway Employees Coop. Credit Society Ltd., Thiruchirapalli —Special Bye-Laws relating to Service Conditions (Pages 1 to 32)
	21.05.2010	In enquiry CSE raised further issues (Intl. Pages 17-20)— However, enquiry continued on (Intl. Page—20 to 21).	Ex.M10	—	Southern Railway Employees Coop. Credit Society Ltd., Thiruchirapalli —Special Bye-Laws relating to S.Rly. ECCS Staff of the Society Regulations governing the Disciplinary Proceeding Pages 1 to 14) with the endorsement of the petitioner as "Naangavathuaha Thabal Mulam Anupiyadu" (unauthorized) — Sd. T. Thandesan (Forth time received through post (unauthorized — Sd. T. Thandesan)

Ex.M11	—	Southern Railway Employees Coop. Credit Society Ltd., Thiruchirapalli —Special Bye-Laws relating to S. Railway ECCS Staff or the Society Regulations governing the Disciplinary Proceedings (Pages 1 to 14) with the endorsement of the petitioner as True Copy Attested — Signed T. Thandesan (Fifty time properly issued to me — True copy attested)	Ex.M22	26.08.2010	Office Order No. 37 — Awarding punishment — In respect of Charge Memo dated 07.10.2008 — Terminated from the service of the Respondent Society— effective 26.08.2010
			Ex.M23	13.10.2010	Appeal letter of the petitioner to reconsider the punishment imposed
			Ex.M24	22.07.2011	Order of M.D. of the Society communicating the Board's decision confirming the dismissal from service
Ex.M12	12.08.2010	Application by petitioner T. Thandesan — under RTI To CPIO, New Delhi-for Bye Law of SRE Coop. Credit Society, Trichy	Ex.M25	—	19 instances of Negligence in work
			Ex.M26	19.07.2011 In Tamil	Paper publication —Land grab case—Involving T. Thandesan —Ex. Railway Credit Member (i.e. the Petitioner in this ID)
Ex.M13	26.10.2009	Letter from Petitioner to Chairman—SRE Coop. Credit Society			
Ex.M14	11.12.2009	W.P. (MD) No. 11890 of 29009 & M.R.1 of 2009 filed by petitioner	Ex.M27	13.07.2011	Petition by Inspector of Police of Somarasampettai Police Station —before Judicial Magistrate No. 5 —Trichy— Opposite Party T. Thandesan
Ex.M15	28.05.2010	Reply from Respondent to Petitioner's letter of 26.10.2009 addressed to Chairman for change of Enquiry Officer	Ex.M28	13.07.2011	FIR—No. 209/2011
			Ex.M29	02.05.2014	Copy of letter from Assistant Secretary, Disciplinary Directorate of Institute of Chartered Accountants of India addressed to M/s A.V. Devan & Co., Chartered Accountants, Chennai-17 —(Auditors for the Respondent Society) — In the matter of complaint by the Petitioner against the Auditor's firm—Holding the Firm NOT GUILTY and closing of the complaint
Ex.M16	28.05.2010	Explanation of the Petitioner— T. Thandesan — to the Respondent's Charge Memo dated 07.10.2008			
Ex.M17	11.02.2010	Advocate Mr. KM Subramaniam's notice to the petitioner and two others on behalf of Mr. S. Ramalingam, M.D. of the Respondent Society			
Ex.M18	25.11.1990	Pamphlet issued by AITU			
Ex.M19(a)	30.06.2010	Findings of the Enquiry Officer Mr. Raja Ram— in Tamil	Ex.M30	—	Specimen forms of — (a) Application for Loan (b) Pay Order advise, Debit Statement and Particulars of deduction. (c) Notice —to Member/Surety — on case of failure of Recovery
Ex.M19(b)	—	Liberal translation of the findings— Tamil to English			
Ex.M20	10.08.2010	Second Show Cause Memo enclosing finding of the Enquiry Officer and calling for explanation from the petitioner within a week of receipt of the notice	Ex.M31	07.11.2012	2A Petition filed by the Petitioner before the ALC (C) —Puducherry
Ex.M21	23.08.2010	Reply of the petitioner to the Second Show Cause dated 10.08.2010	Ex.M32	22.01.2013	Counter of the Society — submitted to the ALC (C) — PDY—to the 2A Petition

Ex.M33	19.02.2013	Rejoinder filed by the Petitioner before ALC (C) PDY
Ex.M34	10.04.2013	Conciliation Failure Report
Ex.M35	—	Southern Railway Employees Coop. Credit Society Ltd. "Pay Order Advise and Debit Statement".
Ex.M36	—	Southern Railway Employees Coop. Credit Society Ltd. "Pay Order Advice and Debit Statement" —as a "Revised Debit Advise"
Ex.M37	—	Southern Railway Employees Coop. Credit Society Ltd. regarding — Loan overdue advise "CCS/OVERDUE"
Ex.M38	—	Southern Railway Employee's Coop. Society Ltd. —Printed Notice with Proforma
Ex.M39	—	Southern Railway Employees' Cooperative Society Ltd. "CCS/Overdue" Advise by Registered Post

नई दिल्ली, 14 मई, 2015

का.आ. 1056.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कपुरथला फीरोजपुर क्षेत्रीय ग्रामीण बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चण्डीगढ़ के पंचाट (संदर्भ संख्या 292/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/05/2015 को प्राप्त हुआ था।

[सं एल-12012/248/98-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th May, 2015

S.O. 1056.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 292/2005), of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure, in the Industrial dispute between the management of Kapurthala - Ferozepur Kshetriya Gramin Bank and their workmen, received by the Central Government on 14/05/2015.

[No.L-12012/248/98-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: SRI KEWAL KRISHAN, Presiding Officer

Case No. I.D. No. 292/2005

Registered on 10.8.2005

Sh. Sukhjot Kumar, C/o Sh. Tek Chand Sharma, 25, Sant Nagar, Civil Lines, Ludhiana.

...Petitioner

Versus

Kapurthala-Ferozepur Kshetriya Gramin Bank The Chairman, Head Office, Jalandhar Road, Kapurthala.

...Respondents

APPEARANCES:

For the workman Sh. Tek Chand, Adv.

For the Management Sh. N.K. Zakhmi, Adv.

AWARD

Passed on 10.4.2015

Central Government *vide* Notification No. L-12012/248/98-IR (B-1) Dated 7.1.1999, by exercising its powers under Section 10 Sub-section (1) Clause (d) and Sub section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management of the Kapurthala-Ferozepur Kshetriya Gramin Bank, H.O. Jalandhar Road, Kapurthala in dismissing the services of Sh. Sukhjot Kumar is just and legal? If not to what relief the concerned workman is entitled to and from which date?"

In response to the notice, the workman submitted statement of claim to which written reply was filed by the respondent management. The facts emerging therefrom are that workman was posted as Cashier-cum-Clerk at Sodhinagar Branch and he was served a following charge-sheet:—

CHARGES

Charge No. 1:— Sh. Sukhjot Kumar was handed over Cash Rs. 1,30,000 on 6.5.1992 for depositing this amount in the CA 38 with Punjab National Bank, B.O. Sandhe Hasham. He deposited Cash Rs. 1,20,000/- thereby misappropriating Rs. 10,000/-.

Charge No. 2:— To conceal the above misappropriation/ embezzlement of funds, he made credit entry of Rs. 1,30,000/- in the passbook issued by PNB Sandhe Hasham in his own hand writing on 6.5.1992. On return to the branch, he confirmed having deposited this amount of Rs. 1,30,000/-

by putting his signatures on the voucher crediting the Head "Remittance in transit." To avoid this misappropriation/embezzlement being detected, he tampered with the balance in the pass book issued by PNB, Sandhe Hasham on 22.5.1992 and 14.7.1992 by inflating the balance by Rs. 10000/-. The Banker Reconciliation Statement for May, 1992, June, 1992 and July, 1992 was prepared by him with the inflated balance under his signatures.

He filed reply and after considering the same, an Inquiry Officer was appointed who conducted the inquiry. He submitted report dated 12.7.1994 finding that the charges are proved against him. Considering the Inquiry report and other relevant circumstances and affording an opportunity of personal hearing to the workman, he was dismissed from service. Now the workman challenged his termination on the ground that the inquiry conducted is not fair and proper and he was not given an opportunity of defending himself and the Inquiry officer based his report on inadmissible evidence. That the appeal preferred by him was wrongly dismissed.

On the other hand the bank pleaded that the workman embezzled Rs. 10,000/- as find mentioned in the charge-sheet and this embezzlement was later on detected and the workman himself confessed his mistake and deposited the amount on 26.8.1992 which he deposited less on 6.5.1992. He was allowed to cross-examine the witness and he tendered 43 documents in his defence. That the Inquiry Officer based his finding on the evidence led before him and there is no defect in the conduct of the inquiry and the punishment awarded on its basis, is legal and valid.

After hearing the counsel for the parties, the inquiry was held to be fair and proper *vide* order dated 26.5.2014 and the said order has not been challenged and has attained finality.

Now, the only question to be seen is whether the punishment awarded is excessive. It was vehemently argued by learned counsel that no loss is caused to the bank who did not suffer in any way due to the alleged conduct of the workman and therefore, the punishment by dismissing from service is unwarranted. This contention is devoid of any force. The banks deal with public money and its officers are supposed to work with due diligence showing high standard of integrity and honesty. In the present case, a sum of Rs. 1,30,000/- was handed over to workman for depositing in the bank and he deposited only Rs. 1,20,000/-. In order to conceal the fact for depositing less amount, he made false entries in the relevant records and later on when the embezzlement was detected, he deposited the amount. Thus, he committed not only breach of trust but made false entry in the record and considering the act and conduct the punishing authority rightly ordered the punishment which do not call for any intefereference.

In result, it is held that the action of the management in dismissing the workman is just and legal and he is not entitled to any relief. The reference is accordingly answered against the workman.

Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 14 मई, 2015

का.आ. 1057.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चण्डीगढ़ के पंचाट (संदर्भ संख्या 30/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/05/2015 को प्राप्त हुआ था।

[सं० एल-12012/224/2005-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th May, 2015

S.O. 1057.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 30/2006), of the Cent. Govt. Indus. Tribunal-cum-Labour Court Chandigarh as shown in the Annexure, in the Industrial dispute between the management State Bank of India and their workmen, received by the Central Government on 14/05/2015.

[No. L-12012/224/2005-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE SHRI SURENDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Case No. ID 30 of 2006. Reference No. L-12012/224/2005-IR(B-1) dated 05.06.2006.

Sh. Lakshmi Narain Nagpal S/o Sh. Amar Nath, H.No. 140, Patel Nagar, Hissar.

...Workman

Versus

1. The Assistant General Manager, State Bank of India, Region-III, Zonal Office, Panchkula (Haryana).

...Respondent

Appearances

For the Workman: None

For the Management: Shri S.K. Gupta Advocate.

AWARD

Dated : 12.5.2015

Government of India Ministry of Labour *vide* notification. L-12012/224/2005-IR(B-1) dated 05.06.2006 has referred the following dispute to this Tribunal for adjudication:

Term of Reference:

"Whether the action of the management of State Bank of India in removal from services of Shri Laxmi Narain Nagpal son of Shri Amar Nath Senior Assistant *w.e.f.* 2.3.2004 is just and legal? If not, to what relief the workman is entitled to?"

2. The workman filed claim statement in which it is pleaded that he joined the service of State Bank of India as Typist Clerk on 05.05.1981 in District Hissar and he was promoted as Senior Assistant in the year 1997. He later on transferred to Patel Nagar Branch, Hissar in the year 1999. There was no complaint from any corner about the work and conduct of the workman. On 28.02.2002, he was transferred from Patel Nagar Hissar Branch to Bawal Branch of State Bank of India without assigning any reason. Three charge sheets dated 18.07.2002, 05.03.2003 and 17.09.2003 were issued to him after a lapse of 9 months of joining at Bawal Branch which were related to Patel Nagar Hissar Branch and all these charges were contained in the charge sheets correlated to each other. The charges were leveled against the workman in charge sheet dated 17.02.2002 is vague, does not fall as charges which are stale and manufactured related to the incidents of the year, 2001 which smell the evil design of the management. The management violated the provisions of bipartite settlement. The whole exercise of the management was to prepare ground for his transfer, victimize, harsh, spoil his image in the eyes of the staff, higher authorities of the bank, the general public so as to remove him from bank service. Inquiry was ordered. The inquiry officer and presenting officer were appointed by the AGM Region-III whereas disciplinary authority would have made these appointments. All the witnesses were officer of the bank who got loan from the bank. The inquiry officer allowed the presenting officer to produce W10 through the course of cross-examination of PW1 despite the repeated objection. The workman was not allowed to complete the cross-examination of PW10. The inquiry officer was prejudiced and acted with biased attitude being partial to the management. The workman was not allowed proper hearing and principle of natural justice was not adhered to by the inquiry officer. Inquiry officer submitted his report to the AGM Region-III. His findings were based on conjectures, surmises and on suspicion who fully dependent upon the presenting officer and not applied its judicious mind. Disciplinary authority also did not take different view and did not consult the record of inquiry proceeding before awarding the punishment of

removal of petitioner which deprived of the legitimate right of the workman. The workman was not allowed to take along with his defence representative during the personal hearing by the disciplinary authority. Appellate authority also did not consult the record of the inquiry and did not apply his independent mind and confirmed the illegal and unlawful decision of removal from service which is illegal, unjustified, arbitrary, ultravires and against the principle of natural justice and in violation of the bipartite settlement. The workman prayed that the inquiry may be vitiated and order of removal from Service may be set aside and the workman may be reinstated in service with all benefits including back wages.

3. The management filed written statement. It is pleaded by the management that workman while working as Senior Assistant at Patel Nagar Hissar Branch committed certain acts of misconduct for which the charge-sheet dated 17.07.2002 was served upon him by his disciplinary authority who is AGM Region-III State Bank of India General officer who was the controller of Bawali Branch. As his reply was not satisfactory, the disciplinary authority ordered for departmental inquiry and Sh. P.C. Mutrega, Senior Officer of the bank was appointed as inquiry officer who conducted the inquiry in a fair manner. The workman was given full opportunity to produce witness in his defence. On the findings of the inquiry officer the disciplinary authority decided to impose punishment of removal from service after affording him personal hearing. The appeal filed by the workman was also dismissed *vide* order 02.03.2004.

4. It is also pleaded by the management that the charges which were proved against the workman were of very serious nature. Thus the punishment of removal from service was commensurate with the gravity of misconduct proved in the departmental inquiry. The transfer of the workman from Hissar Branch to Bawal Branch was as per the transfer policy of the bank. As the workman was given full opportunity during inquiry and inquiry was conducted adhering to the principles of natural justice and punishment was also proportionate with the gravity of misconduct. Therefore, the punishment of removal from service of the workman is not against the law, and it is prayed that reference may be rejected.

5. The workman was served with charge sheet containing 5 charges which are as under:—

"1. You on 02.11.2001 at about 6.30 P.M. entered the branch premises in a drunken state, shouting and abusing. You abused the Branch Manager, used filthy, derogatory and unparliamentary language. When you were asked to leave the Branch Manager's cabin by Branch Manager, you not only refused to leave the room but also tried to man-handle the Branch Manager. You created unruly scene for about 15-20 minutes and finally left the Branch Manager's cabin after spitting on the floor in front of the Branch Manager's table.

2. While leaving the branch premises, you pulled down shutter and bolted the shutter from outside, thereby, confining the officers' staff sitting inside the branch premises. The shutter was subsequently got opened by the neighboring shop keepers.

3. You are habitual of using unparliamentary and filthy language with general public and customers.

4. You did not perform allotted duties fully. You are habitual late comer and normally come to office around 10.30 A.M. and leaving in between unauthorisedly and arriving after lunch break. On 18.01.2002, you had reported late marked your attendance time as 09.45 A.M. on a cross in red marked by Branch Manager on the attendance register on that day.

5. You remained on leave/absent for a number of times without sanction of leave and without any leave application even as per detail given below:

Period		Total Days
From	To	
13.01.2001	15.01.2001	3
07.12.2001	07.12.2001	1
10.02.2001	10.02.2001	1
03.03.2001	04.03.2001	2
04.04.2001	04.04.2001	1
11.04.2001	11.04.2001	1
27.05.2001	28.05.2001	2
02.06.2001	03.06.2001	2
07.07.2001	09.07.2001	3
22.07.2001	22.07.2001	1
22.09.2001	23.09.2001	2
26.09.2001	28.09.2001	3
10.11.2001	10.11.2001	1
15.11.2001	15.11.2001	1
21.11.2001	21.11.2001	1
30.11.2001	30.11.2001	1
01.12.2001	02.12.2001	2
09.12.2001	09.12.2001	1
30.12.2001	31.12.2001	2
12.01.2002	13.01.2002	2
19.01.2002	19.01.2002	1
10.02.2002	10.02.2001	1

6. You had raised loans from various under noted co-operative societies and your total borrowings are in excess of permissible limit.

(I) The Bank Staff Coop. Urban Se Thrift & credit Society Ltd. Hissar

(II) The Hissar Gramin Kshetriya Bank Employees Co-op. Salary Earned T & C Society Ltd. Hissar.

(III) The Hissar Haryana Bank Employees Cooperative Urban (SE) T & C Society Ltd. Hissar.

(IV) The Hissar Bank Employees Coop. Se T & C Society. Hissar.

The above acts of omissions and commissions on your part, if proved, would amount to gross misconduct under the provisions of Para 521(4) (c), (e) & (j) of the Sastry Award and the 6th Bipartite Settlement."

6. So far the issue of fairness of enquiry is concerned, this issue has already been decided by this Tribunal *vide* vide order dated 26.02.2015. The relevant part of order mentioned above is as under:—

"From the record, it is revealed that charge sheet was received by the workman. He replied to the charge sheet. Finding the replies unsatisfactory, Sh. S.S. Mutreja was appointed as inquiry officer. Management examined witnesses during the departmental inquiry. The workman was allowed to cross-examine the witnesses of the management and the workman in defence also produced witnesses in departmental inquiry. The inquiry officer submitted his report to the disciplinary authority. The disciplinary authority issued a show cause notice dated 27.08.2003 to the workman. The workman was allowed personal hearing on 01.11.2003 by the disciplinary authority and upon considering the submissions of the workman, inquiry report and inquiry proceedings, the order of removal from service was passed by the disciplinary authority. The workman also filed appeal on 21.04.2004, and the appellate authority also provided personal hearing to the workman on 13.02.2004. After applying its mind, the appellate authority rejected the appeal of the workman on 04.03.2004. There is nothing on the record to show that the workman was not allowed any opportunity during the inquiry. The workman was allowed full opportunity to produce his evidence and to examine the witnesses of the management. The workman was also given personal hearing both by the disciplinary authority and the appellate authority and speaking order was passed by both of the authorities. The workman failed to point out any infirmity in the inquiry and in which way he was prejudiced by any action of the inquiry officer. Therefore, it is held that inquiry was conducted fairly and properly."

7. On the issue of perversity and on quantum of punishment, despite opportunity, workman failed to lead any evidence. During proceedings, the learned

representative of the workman earlier appearing pleads no instructions. The representative of the management also made a statement that the management does not want to lead any evidence on perversity and quantum of punishment.

8. As none appeared for the workman, the case was adjourned for arguments. Arguments of the learned representative of the management heard as none appeared for the workman.

9. The learned representative of the management submitted in arguments that workman was charge sheeted on various counts for gross misconduct which included entering the branch premises at 6.30PM in drunken state, shouting and abusing the branch manager using filthy and derogatory and unparliamentary language and creating unruly scenes and finally left the cabin of the manager after spitting on the floor in front of the branch manager and while leaving pulled down the shutter and bolted the shutter from outside confining the officers and staff sitting inside which was subsequently opened by the neighboring shopkeepers, workman was charged for not performing allotted duties and remaining on leave/absent the detail of which has been given in earlier paras for which the workman was charge sheeted. Enquiry officer was appointed and detailed enquiry was conducted in which the workman was given full opportunity of defence. *Vide* this Tribunal's order dated 26.2.2015 the enquiry was held to be fair and proper. From the record it is revealed that enquiry officer conducted the enquiry and on charge No. 1 management produced as many as four witnesses who deposed that the workman entered the branch on 2.11.2001 at 6.30PM shouting and abusing in drunken state and used unparliamentary language, creating unruly scene in the branch and tried to manhandle the branch manager and spit on the floor in front of the branch manager's table. In defence the workman produced as many as two witnesses and himself. One of the witness stated that he examined the workman at 5.30PM in his clinic and the workman was running temperature of 104 degree and he was advised rest but the above witness failed to show any entry in his register stating that the register was burnt by this rivals. This witness also admitted that he gave some medicines which smell like alcohol. It is stated by the witnesses that went to Patel Nagar branch to take leave. There is no reason to disbelieve the version of witnesses of the management during enquiry proceedings. Therefore, the enquiry officer rightly held the charge No. 1 proved against the workman.

10. As regard the charge No. 2 is concerned the management during enquiry produced four witnesses who have deposed that it was workman who while leaving the branch pulled down the shutter and bolted it from outside and Mr. Sanjay Kumar who appeared as PW-5 in enquiry proceedings categorically stated that it was the workman who pulled down the shutter and bolted it from outside and later on this PW-5 Sanjay Kumar opened the shutter. From

the above the charge No. 2 was rightly proved against the workman by the enquiry officer.

11. As regard the charge No. 3 is concerned the management produced PW-10 Sushma Rani and workman produced DW-1 to DW-18 in his defence who are the customer of the bank and DW-19 who is the official of the bank. The workman during the proceedings before this Tribunal produced Smt. Sushma Kumari who was also bank witness W/o Sudharshan Kumar who appeared as PW-10 during enquiry. The above Smt. Sushma Kumari appeared as WW1 in this Tribunal stated in cross-examination that she does not know about the case and the son of workman asked her to come to the court. She stated that she did not read the affidavit dated 12-8-2005 before signing it. She never gone before any authority to verify and attested the affidavit. In view of the above the enquiry officer rightly proved the charges against the workman.

12. As regard the charge No. 4 is concerned the management produced documents P-15, 16, 17, 18 and P-1, 6, 8 to prove the charges. Ex. P-15 to P-18 are the office order. The DW/22 during cross-examination confirmed having posted the vouchers of the previous day left by the workman. The management also produced Ex. P-6 which is memo No. 4 dated 18.10.2002 in which the workman was charged for generally come late in office, leave in between and take lunch up to 4 P.M. The management also produced Ex. P-5 which is a complaint against the workman by some customer of the branch. Ex. P-8 is memo dated 5-11-2001 serve to the workman to which neither workman replied nor refuted the charges DW-19 who is a part time sweeper of the branch also deposed during enquiry that workman used to come office at 10/10-30 a.m. The workman failed to produce any documents/witnesses to deny the charges. Therefore, the enquiry officer rightly held that charge No. 4 proved against the workman.

13. As regard the charge No. 5 is concerned the management during enquiry produced leave record of the workman which reveals that workman proceeded on leave without application for 22 times from 13-1-2001 to 10-2-2002. The enquiry officer fairly observed that as branch manager despite workman going on leave without any application for 22 times never delivered any letter pointing his misconduct, the charge was partially proved by the enquiry officer.

14. As regard charge No. 6 is concerned the management produced Ex. P-9 to P-12 which are deduction list from salary of the four societies. And P-19 shows total deductions of various loans raised by the workman. The workman produced two letters but it is clear from the above documents that percentage of deduction each much more to which the workman not refuted the charge and the enquiry officer rightly proved the charge against the workman.

15. From the above it is revealed that all the charges from 1 to 4 and 6 were fully proved against the workman and charge No. 5 was partially proved. All these charges were serious in nature.

16. The learned counsel for the management relied on the case laws 2008(5)SLR 214 Usha Breco Mazdoor Sangh Vs. Management of M/s. Usha Breco Ltd. And another, 2006(4) SLR 47 P.D. Aggarwal Vs. State Bank of India (SC), 2005(2) RSJ 542 (SC) Mahindra and Mahindra Ltd. Vs. N.B. Naravade, 2008(3) RSJ 15 Roop Chand Verma Vs. Industrial Tribunal.

17. From the facts and circumstances of the case and taking into consideration the discussion in forgoing paras, all the charges except charge No. 5 proved against the workman. The workman was guilty of serious misconduct and following the ratio laid down by the Hon'ble Supreme Court and Hon'ble High Court, on the basis of above findings, the workman is not entitled to any relief.

18. The reference is disposed off accordingly. Central Govt. be informed. Soft as well as hard copy be sent to the Central Govt. for publication.

Chandigarh
Dt. 12-05-2015

S. P. SINGH, Presiding Officer

नई दिल्ली, 14 मई, 2015

का.आ. 1058.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार युको बैंक के प्रबंधन के सबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ 8/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.05.2015 को प्राप्त हुआ था।

[सं० एल-12012/184/2002-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 14th May, 2015

S.O. 1058.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.8/2003) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the management of UCO Bank and their workmen, received by the Central Government on 14/05/2015.

[No.L-12012/184/2002-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Present: Shri Pradeep Kumar,
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

Industrial Dispute Case No. 8/2003

L-12012/184/2002-IR(B.II) dated 17.03.2003

Date of Passing Award-9th Day of January, 2015

Between:

The Regional Manager,
UCO Bank, Ashok Nagar, Unit-2,
Bhubaneswar(Orissa)-751009 ... 1st Party-Management.

And

Shri Benudhar Behera,
At-Krushnakumarpur,
PO-Kaimati, Dhenkanal, Orissa ... 2nd Party-Workman

Appearances:

1. None ... For the 1st Party-
Management
2. Shri Benudhar Behera ... For the 2nd Party-workman

AWARD

The Government of India in the Ministry of Labour & Employment has referred the present dispute existing between the employer in relation to the Management of UCO Bank, Ashok Nagar Branch, Bhubaneswar, Odisha, and their workman Shri Benudhar Behera in exercise of the powers conferred under clause (d) of sub-section (1) and sub-section 2(A) of section 10 of the Industrial Disputes Act *vide* their Letter No. L-12012/184/2002 - IR(BII), dated 17.03.2003 to this Tribunal for adjudication. The dispute as referred to has been mentioned under the schedule of the order of reference which is quoted below.

"Whether the action of the Management of UCO Bank, in relation to their Rasol Branch, Dhenkanal in imposing the punishment of Dismissal from services of Shri Benudhar Behera, Clerk-cum-Cashier, *w.e.f.* 4.6.1999 is legal and justified? If not, what relief the workman is entitled to?"

2. The 2nd Party workman Shri Benudhar Behera (herein after referred to as "the workman") who happened to be an employee of the UCO Bank, Rasol Branch, Dhenkanal has filed his Statement of Claim and rejoinder along with certain documents detailing therewith the illegality committed by the 1st party management Bank (hereinafter referred to as "the management") in conducting a departmental proceeding against him on the charges of misappropriation of public money and imposing the punishment of dismissal from services of the workman by keeping a blind eye and a deaf ear towards the plights of the workman. The workman also received the same result when he made an appeal before the appellate authority. The workman pleaded for his innocence as he had never misappropriated the depositors money. The workman has further stated that the real culprit of this issue is the then branch manager Late Shri Sankarsana Maharana, who was committing all

such crimes through the workman by threatening him of serious actions if the workman did not co-operate him.

3. The workman as stated in his plaint had intimated the fact of irregularities committed by Shri Maharana to the higher authorities. The workman also intimated this fact to one Shri Rabindra Kumar Patnaik, the then Branch Manager of Rasol Branch. Shri Patnaik undertook the verification of the matter and found the complaint of the workman to be genuine. Accordingly, Shri Patnaik intimated the fact to the vigilance cell of the bank basing upon which a vigilance enquiry was conducted by the bank in respect of the misappropriation and found that late Shri S. Maharana to be the real culprit in the matter. The workman therefore, prayed for an order of his reinstatement with full back wages *w.e.f.* 4.6.1999 by declaring the punishment imposed upon him as illegal and unjustified and to treat his suspension period as on duty.

4. The management on the other hand filed his written statement countering therewith the statements made by the workman in his statement of claim. On finding the workman involved in the misappropriation of depositors money, he was charge sheeted and a departmental proceeding was conducted against him fairly and properly. At last, the workman was dismissed from services by the disciplinary authority. The management also further stated that since the management had taken proper action against the workman after following due procedure, this Tribunal has no scope to interfere into the same and accordingly the reference is to be answered in favour of the management by disentitling the workman for any relief.

5. The management further contended that the bank has lost confidence on the 2nd Party for his proved misconducts for which the management had rightly punished the workman with his dismissal from services. Accordingly, the same does not call for the interference of this Tribunal in exercise of its powers conferred under Section 11-A of the Industrial Disputes Act, 1947.

6. The following issues were framed by my predecessor:—

- (a) Whether the reference is maintainable?
- (b) Whether the domestic enquiry held by the Management against the 2nd Party Workman was fair and proper?
- (c) Whether the action of the Management dismissing the workman Shri Benudhar Behera is justified?
- (d) If not, to what relief the workman is entitled?

7. The 2nd party examined himself as the workman witness No. 1 and Shri Rabindra Kumar Pattanaik as workman witness No. 2. The management examined Shri Arun Kumar Misra as the management witness No. 1 and exhibited 09 (nine) documents. The workman relied upon

the documents filed by him alongwith his statement of claim. The management had already filed its written notes of arguments. Since the representative of the management did not appear for oral arguments, I have heard oral arguments from the side of the workman only.

FINDINGS

Issue No. 1

8. The Admittedly, the establishment of the management is an industry within the meaning of Section 2(j) of the Industrial Disputes Act, 1947 (herein after referred to as "the Act") and the dispute of illegal punishment of dismissal of the workman by the management as alleged is an industrial dispute within the meaning of Section 2(k) of the Act. The work performed by Shri Benudhar Behera in the bank prior to his dismissal was clerk-cum-cashier, which satisfies the conditions laid down under Section 2(s) of the Act to treat Shri Behera as a workman. Upon aggrieved with the imposition of alleged illegal punishment, the workman raised the dispute before the Assistant Labour Commissioner (Central), Bhubaneswar for an amicable settlement of the matter. Since no settlement could be arrived at, the Assistant Labour Commissioner (Central, Bhubaneswar referred the matter to the Ministry of Labour & Employment, Government of India, New Delhi being the appropriate Government for consideration and hence this reference. Hence, on the above counts, it is an established fact that the reference is maintainable. Issue No. 1 is answered accordingly.

Issue No. 2

9. In so far as the procedure followed in the conduction of the domestic enquiry against the workman, the same has been done fairly and properly. But, it appears that neither the report of the enquiry officer nor the action of the disciplinary authority in the dismissal of the workman is fair and proper and hence not justified as the statement made by the witnesses of the management during the departmental proceedings have not been considered or interpreted properly. Thus, this Tribunal is compelled to invoke Section 11-A of the Act in this matter to deal with the actions of the management. The management witness No. 1 and the customers of the bank whose money is misappropriated, during the course of departmental proceedings have stated that Shri Behera (the workman) is innocent and the act of misappropriation was actually done by late Shri Sankarsana Maharana, then Branch Manager of the bank. Late Shri S. Maharana also wrote the bank management about his direct involvement in the act of misappropriation and termed the workman as innocent. The enquiry officer as well as the disciplinary authority have overlooked the same and punished the innocent workman. Therefore, it is crystal clear to say that the domestic enquiry conducted against the workman by the management is not fair and proper. Issue No. 2 is answered accordingly.

Issue No. 3

10. It is an admitted fact that the alleged act of misappropriation of depositors money was duly investigated by the vigilance cell of the management on the report of Shri Rabindra Kumar Jena, then Branch Manager of Rasol Branch of the bank. The vigilance officers in their report have stated the involvement of late Shri S. Maharana, then branch manager for misappropriation of public money and declared Shri Benudhar Behera as innocent. The workman was the management witness in the CBI Case bearing No. R.C. - 12/99 which was instituted against the above matter of misappropriation. The learned CBI court in his judgement declared Shri S. Maharana to be the real culprit and Shri Benudhar Behera as innocent.

11. Also, the management witness and other witnesses have clearly stated in their deposition before the enquiry officer in the departmental proceedings about the innocence of the workman. There were also supportive documents lying with the management which proves the innocence of the workman. But, it appears that the management suppressed those materials and imposed the punishment of dismissal of the workman which is a clear act of victimization done vindictively. The act of the management is a clear act of colourable exercise of the employer's rights. The management is therefore, not justified in imposing the punishment of dismissal of the workman Issue No. 3 is answered accordingly.

Issue No. 4

12. The management is therefore, ordered to reinstate the workman back into his services with the payment of full wages to him since the date of dismissal of the workman, that is from 04.06.1999 till the date of reinstatement of the workman treating the period of suspension periods of the workman as on duty. It is also further ordered that the entitled amounts of back wages are to be paid to the workman within a period of 03 (three) months from the date of publication of award in the Gazette of India failing which the management shall pay interest @ percent simple interest per annum till the date of such disbursements. Issue No. 4 is answered accordingly.

13. The reference is answered accordingly against the 1st party management Bank.

Dictated and corrected by me.

PRADEEP KUMAR, Presiding Officer

नई दिल्ली, 15 मई, 2015

का.आ. 1059.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91-क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए सेल के भिलाई स्टील प्लांट के कारखानों/स्थापनाओं के नियमित कर्मचारियों को इस अधिनियम के

प्रवर्तन से छूट प्रदान करती है। यह छूट, इस अधिसूचना के जारी होने के तारीख से एक वर्ष की अवधि के लिए लागू रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात्:-

- (1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाए जाएंगे;
- (2) इस छूट के होते हुए भी कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;
- (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात उक्त अवधि कहा गया है) प्रवर्तमान था ऐसे विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;
- (5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई सामाजिक सुरक्षा अधिकारी या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी :-
 - (i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ; अथवा
 - (ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथा अपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या
 - (iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या
 - (iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा:-
 - (क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है; अथवा

- (ख) ऐसे प्रधान या आसन्न नियोजनक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या
- (ग) प्रधान या आसन्न नियोजक की, उसके अधिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या
- (घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;
- (ङ) यथानिर्धारित अन्य शक्तियों का प्रयोग करना।

6. विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[सं. एस-38014/7/2013-एसएस-I]
अजय मलिक, अवर सचिव

New Delhi, the 15th May, 2015

S.O. 1059.—In exercise of the power conferred by Section 88 read with Section 91-A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees of factories/establishments of Bhilai Steel Plant of SAIL from the operation of the said Act. The exemption shall be effective from the date of issue of notification for a period of one year.

2. The above exemption is subject to the following conditions namely:—

- (1) The aforesaid establishments wherein the employees are employed shall maintain a register showing the name and designations of the exempted employees;
- (2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of contributions paid prior to the date from which exemption granted by this notification operates;
- (3) The contributions for the exempted period, if already paid, shall not be refundable;

- (4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;
- (5) Any Social Security Officer appointed by the Corporation under sub-section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of:—
 - (i) Verifying the particulars contained in any returned submitted under Sub-Section (1) of Section 44 for the said period; or
 - (ii) Ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or
 - (iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
 - (iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to:—
 - (a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or
 - (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or
 - (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee; or

- (d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises,
- (e) exercise such other powers as may be prescribed.
- (6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption.

[No. S-38014/7/2013-SS-I]

AJAY MALIK, Under Secy.

नई दिल्ली, 19 मई, 2015

का.आ. 1060.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार युनियन बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय, बैंगलोर के पंचाट (4/2004) प्रकाशित करती है जो केन्द्रीय सरकार को 14/05/2015 को प्राप्त हुआ था।

[सं एल-12012/187/2003-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th May, 2015

S.O. 1060.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.4/2004) of the Cent.Govt. Indus. Tribunal-cum-Labour Court-Bangalore as shown in the Annexure, in the industrial dispute between the management of Union Bank of India and their workmen, received by the Central Government on 14/05/2015.

[No. L-12012/187/2003-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, YESWANTHPUR, BANGALORE—560 022

DATED : 18th February, 2015

PRESENT : Shri S.N. Navalgund
Presiding Officer

C R No. 04/2004

I Party

Sh. K. Satishchandra Shetty, The Deputy General
Kamala Nivas, Majeela Manager,
Colony, Jeppur Seminary, Union Bank of India, Zonal

II Party

Kankanady,
Mangalore- 575002

Office, Chandrakiran, 10/A-
Kasturba Road, P.B. No.
5179,
Bangalore—560 001

Appearances :

I Party : Shri M Keshavayya,
Advocate

II Party : Shri T Thippesh,
Advocate

AWARD

1. The Central Government *vide* Order No. L-12012/187/2003-IR(B-II) dated 19.01.2004 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule:

SCHEDULE

"Whether the action of the management of Union Bank of India in dismissing the service of Shri Satishchandra Shetty, workman of Union Bank of India, Bunder Branch, Mangalore *w.e.f.* 13.7.1999 is legal and justified? If not, what relief the workman is entitled to?"

2. On receipt of the reference while registering it in C R 04/2004 when notices were issued to both the sides, they entered their appearance through their respective advocates and I party filed claim statement on 18.06.2004 asserting that there was gross-violation of principles of natural justice in conducting the Domestic Enquiry and that the enquiry finding charge is proved is not based on any evidence and that the punishment imposed is also disproportionate to the alleged misconduct. *inter-alia*, the II Party filled its counter statement on 10.02.2005 asserting that the Domestic Enquiry was conducted following all the principles of natural justice and as the CSE/I Party voluntarily confessed to the charges the Enquiry Officer was justified in submitting his finding the charge as proved and for such misconduct the punishment of dismissal being just and proper there is no need to interfere either in the finding of the Enquiry Officer or in the punishment imposed.

3. My learned predecessor having regard to the certain allegations made in the claim statement touching the Domestic Enquiry by framing a Preliminary Issue as to :

"Whether the Domestic Enquiry held against the I Party by the I Party is fair and proper?"

receiving the evidence of both sides and hearing arguments by his order dated 19.01.2007 held the Domestic Enquiry conducted against the I Party by the II Party is not fair and proper called upon the II Party to substantiate the charge levelled against the I Party. Pursuant to the said order the learned advocate appearing for the II Party while filling the

affidavit of Sh. Chandrashekar Moolya who was the Branch Manager of Mangalore Bunder Branch at the relevant time of the incident covered in the charge sheet and examined him on oath as MW 2 and in his examination he referred to the Charge Sheet issued to the I Party dated 19.03.1998; Complaint allegedly received from Sh. Kunhi Monu the SB Account holder No. 6160 dated 10.02.1998; ledger extract of the SB Account; Passbook pertaining to that SB Account Report given by MW 1 to the controlling office; three letters written by MW 1 to the Regional Office dated 11.02.1998, 13.02.1998 and 09.05.1998; FD receipt issued in favour of Mr. Kunhi Monu for a sum of Rs. 22000.00 allegedly by I Party with a forged signature of the Branch Manager; receipt regarding remittance of the Rs. 25000.00 allegedly by the I Party; debit slip in respect of that remittance; Cheque returned memo in respect of Cheque allegedly issued by the I Party dated 04.03.1998; extract of SB account No. 2799 of the I Party which were marked as Ex M-6, Ex M-13, Ex M-14, Ex M-15, Ex M-16, Ex M-17, Ex M-18, Ex M-19, Ex M-20, Ex M-21, Ex M-22, Ex M-23, Ex M-24 and Ex M25 respectively while recording the evidence on the Preliminary issue. INTERALIA, the learned advocate appearing for the I Party after cross-examining MW 2 while filling the affidavit of the I Party workman examining him on oath as WW 1 closed his side without getting any documents exhibited. Subsequently, the learned advocate appearing for the I Party by filing an application seeking permission to lead further evidence when it was allowed filed the affidavit of Sh. Kunhi Monu, the SB Account Holder No. 6160 but failed to bring him and examine as such his evidence is not available either to the I Party or the II Party.

4. With the above evidence, the learned advocates appearing for both sides filled their written arguments.

5. The brief facts leading to this reference and award may be stated as under.

6. The I Party while serving as Sub-staff/Attender at Bunder, Mangalore Branch of the II Party was served with charge sheet as under:

"Charge Sheet

It is reported that Shri Satish Shetty has committed the following act of omission and commission while working as Sub-staff, Mangalore (M) Branch.

Shri M. Y. Kunhi Monu one of the customer is maintaining a SB a/c No. 6160 which was opened on 2-7-94 with Mangalore (M) Branch. This account was introduced by Satish Shetty.

On 10-2-98 Shri Kunhi Monu had remitted Rs. 500/- to his SB Account and produced his pass book for updating the entry. On verifying the pass book/record of the branch it has been observed that many entries appearing in pass book have not been reflected in the ledger account. On verifying the records it is observed that the party had remitted small amount on various dates on 112 occasions

to the said account and the party used to make payment to Shri Satish Shetty at his house and at times in the branch and Shri Shetty himself used to make relevant entries in the passbook. However, as per the branch ledger account there are only 13 entries. The balance outstanding in the account as of 10-2-98 was Rs. 540.21 whereas there were 112 entries in the pass book showing the balance outstanding as Rs. 2141/- after transaction made from the date of the opening of the account. It has also been observed that the lumpsum amount was transferred to term deposit on 3 occasions. Shri Shetty used to make relevant entries in the pass book of the customer. However, remittances were not accounted for in the books of the branch. When the balance was accumulated in the pass book Shri Shetty induced the party to transfer the amount to fixed deposit in order to get advantage of higher interest for which he has unauthorisedly taken some of the bank leaves of the fixed deposit receipts block and issued a fixed deposit receipt for a amount of Rs. 10000/- on 14-8-95. the said deposit entry does not figure in the books of the branch. The proceeds of the said FDR on maturity aggregating to Rs. 11100/- was transferred to SB Account on 12-8-96 and on the same day an amount of Rs. 18000/- was transferred to FDR Account. An amount of Rs. 18900/- being the proceeds of FDR + interest was credited to the SB Account and the deposit for Rs. 22000/- was issued on 17-11-97 for 6 months. It is also observed that Shri Shetty had also issued forged and unauthorised FDR.

It is also reported that he has issued a cheque bearing No. 134013 dated 3-3-98 for Rs. 3450/- favouring Tyre Trely without maintaining sufficient balance in account with Mangalore (M) Branch. Therefore, the cheque was returned from Mangalore (M) Branch on 4-3-98 for the reason "Insufficient Funds".

The aforesaid acts on the part of Shri Shetty amounts to the following misconduct:

Gross Misconduct

1. Doing acts prejudicial to the interest of the Bank involving seniors monetary loss to the Bank.

Minor Misconduct

1. Breach of any rules of business of the Bank.

Shri Shetty is further informed that Shri S. N. Mehra, Deputy Manager (P), Regional Office, Bangalore is authorised to initiate further disciplinary action including that of departmental inquiry into aforesaid charges levelled against him. The date, time and place of the inquiry will be intimated directly by the Enquiry Officer/Disciplinary Authority in due course. If Shri Shetty so desires he may submit his explanation in the matter directly to the Enquiry Officer/Disciplinary Authority.

Sd/-
Disciplinary Authority"

and being not satisfied with the reply Domestic Enquiry was initiated by appointing Sh. S.N. Mehra as Enquiry Officer and Sh. S. Ramaswamy, Deputy Manager as Presenting Officer. The Enquiry Officer stating that CSE/I Party voluntarily made confession of the charges gave his findings the charge being proved. On the basis of that finding the Disciplinary Authority affording an opportunity of hearing to the CSE/I Party by his order dated 07.04.1999 imposed the punishment of Dismissal from Service and on appeal by the CSE to Appellate Authority/Deputy General Manager(P) since he confirmed the same by his order dated 12.11.1999, the CSE approached ALC(C), Mangalore and he submitted FOC dated 29.08.2003 it resulted in this reference.

7. Since this tribunal has held the Domestic Enquiry conducted by the II party by the I Party is not fair and proper and received the evidence of both the sides on merits, the points that now arises for my consideration are:

Point No. I: whether the II party proved the charges levelled against the I Party?

Point No. II: If yes, whether the punishment of Dismissal from service is disproportionate?

Point No. III: What order/Award?

8. According to the management II Party it received a complaint from Sh. Kunhi Monu the SB Account Holder No. 6160 at its Bunder, Mangalore Branch dated 10.02.1998 alleging that since 02.07.1994 he has been maintaining SB Account No. 6160 and that he used to send amount through Mr. Satish Shetty (CSE/I Party) to credit into his account and when there was much balance in his account as per advise of Sh. Satish Shetty he requested to transfer Rs. 10000.00 to Fixed Deposit Account and subsequently on 12.08.1996 he was informed by Mr. Satish Shetty that the FD of Rs. 10000.00 being renewed for Rs. 11100.00 and subsequently by Rs. 18000.00 on 17.11.1997 and he also informed that a sum of Rs. 22000.00 being credited to his SB Account on 17.11.1997 and on that day when he verified his passbook entries with the ledger entries he could not see any debit or credit in his account and on verification of that complaint since it was observed that 112 entries of payments being made in the handwriting of the I Party in the passbook but as per the ledger entries there were only 13 transactions and on enquiry with the I Party he refunded Rs. 25000.00 through Sundry Deposit Credit voucher dated 14.02.1998 and thereby admitted having issued forged FDs etc. The I Party except that he did introduce Sh. Kunhi Monu at the time of opening the SB Account having denied all other allegations the evidence of Sh. Kunhi Monu alone could have established the charges alleged against the I Party. The II Party did not make any attempt to examine him and rest contended on the evidence of the then Branch Manager Sh. Chandrasekhar Moolya. Even the II Party failed to bring on record the evidence of handwriting expert

to substantiate/prove the allegation that the entries in the pass book issued to Sh. Kunhi Monu and the FD receipts issued his favour were being in the handwriting of the I Party/CSE. Of course, the I Party who filed the affidavit of Sh. Kunhi Monu on 29.08.2012 though failed to examine him on oath that cannot go to the rescue of the II Party on whom the burden of proving the charge was lying heavily. Under the circumstances, I am of the considered view that II Party miserably failed to substantiate the first charge.

9. As far as Charge No. 2 that I Party had issued a Cheque bearing No. 134013 for Rs. 3450.00 favouring Sh. Tyre Trely and the same returned for not maintaining sufficient balance on 04.03.1998 rest contended by producing a memorandum of Union Bank of India dated 04.03.1998 for returning cheque bearing No. 134013 for Rs. 3450.00 and extract of SB Account No. 2799 standing in the name of K Satish Chandra Shetty/I Party but on reading these two documents it is not possible to make out the Memorandum being in relation to the cheque issued by I Party on his account No. 2799 with Union Bank of India. Under the circumstances, I am also of the opinion that II Party failed to substantiate the second charge as well.

10. In view of my finding that II Party failed to substantiate the charges levelled against the I Party the punishment of Dismissal imposed do not sustain and he is entitle for reinstatement. Since the evidence of I Party that he is not gainfully employed after his dismissal from service by the II Party being not rebutted by placing any positive evidence except making bald suggestions in his cross-examination that he is gainfully employed he is also entitle for full backwages, continuity of service and all other consequential benefits that he would have received in the absence of the impugned punishment order of Dismissal. In the result, I pass the following :

ORDER

The action of the management of Union Bank of India in dismissing the services of Shri Satishchandra Shetty, workman of Union Bank of India, Bunder Branch, Mangalore *w.e.f.* 13.07.1999 is not legal and justified and that he is entitle for reinstatement with full backwages, continuity of service and all other consequential benefits that he would have been entitle in the absence of the impugned punishment order of Dismissal.

(Dictated U.D.C. transcribed by him, corrected and signed by me on 18th February, 2015)

S.N. NAVALGUND, Presiding Officer

नई दिल्ली, 19 मई, 2015

का.आ. 1061.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम

न्यायालय बैंगलोर के पंचाट (संदर्भ सं. 25/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.05.2015 को प्राप्त हुआ था।

[सं एल-12012/90/2010-आईआर (बी-II)]
रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th May, 2015

S.O. 1061.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/2011) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of Syndicate Bank and their workmen, received by the Central Government on 14/05/2015.

[No. L-12012/90/2010-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, YESWANTHPUR, BANGALORE - 560022

Dated : 7th April, 2015

Present :

Shri S.N. Navalgund, Presiding Officer

C R No. 25/2011

I Party

Sh. Ravish Kumar,
S/o K. V. Satyanarayana,
No. 1031/A, 8th Cross,
K. R. Puram,
Hassan-573201

II Party

The Manager (HR),
Synidicate Bank,
Nodal IR Cell,
Regional Office,
Udupi

Appearances

I Party : Self

II Party : Sh. Ramesh Upadhyay
Advocate

AWARD

1. The Central Government vide Order No. L-12012/90/2010-IR(B-II) Dated 27.05.2011 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule:

SCHEDULE

"Whether the punishment of dismissal imposed on Shri S Ravish Kumar, E. No. 431950, Stenographer by the management of Syndicate Bank vide order No. 2521/ROM/PC/JBG dated 08/09/2008 is legal and justified? What are the reliefs/compensation the workman is entitled to?"

2. On receipt of the reference while registering it in CR 25/2011 when notices were issued to both the parties, I Party entered his appearance and filed claim statement on 22.06.2011 and II Party entered its appearance through Sh. Ramesh Upadhyaya, Advocate and filed its counter statement on 30.08.2011

3. The brief facts leading to this reference and award may be stated as under.

4. Sh. S. Ravish Kumar (hereinafter referred as I Party) while serving as Stenographer as Syndicate Bank (hereinafter referred as II Party) Hussan (Main) Branch was served with charge sheet dated 12.03.2007 as under:

"Charge Sheet

Your attention is drawn to letter No. 3243/ROM/COMP/JBG dated 28.09.06 calling for your remarks on certain irregularities/lapses observed against you and your letters in response dtd. 8.11.2006 and 23.11.2006.

It has been now decided to proceed further in the matter by charge sheeting you as under:

That you have been working as a Stenographer at our Hssan (Main) Branch from 11.12.2000 to 05.09.2006. During the period of your working as such there have been certain serious allegations against you indicating that you resorted to acts/omissions detrimental to the interst of the Bank in addition to violating your duty/service conditions.

The following are the circumstances appearing against you in the matter.

1. That you were entrusted with the following duties in the Office Order dated 16.04.2003.

- | | |
|--------------------------|---|
| From 10.30 AM to 2.30 PM | - (a) Attending at May I Help you counter |
| | (b) Issue of withdrawal slip |
| | (c) Filling SB/Deposit A/c Opening forms |
| From 3.10 PM to 4.30 PM | - (a) Typing |
| | (b) Statements and any other duties allotted from time to time. |
| From 4.30 PM to 5.30 PM | - (a) Outside duties for canvassing business. |

That you have maintained two accounts in the branch i.e., SB a/c No. 34128 OD A/c 1193; that your wife Smt. Gayathri K S has maintained a SB A/c bearing No. 43677 at Hassan Main Branch; that your Co-brother Sri Shivaprakash has maintained SB A/c No. 42322 at Hassan Main Branch.

II. That there has been a complaint from one Sri Deva Gowda, customer of the branch (SB A/c No. 13335) on 27.04.2005 and thereafter a statment on 08.11.2005 alleging

against you that—when he approached the branch on 07.09.2004 for making a FD on Rs. 32000/- in the name of his grand daughter you told him not to invest in FD Scheme of the Bank in the Branch as he would be getting monthly income of Rs. 2000/- if he invests the said amount in a scheme called National Federation of the Blind (NFB); You prepared a challan for purchasing a Drat for Rs.31581/- favouring NFB and obtained his signature for registering his name with the Federation; he did not receive any receipt either from you or from NFB. As he did not get any money/receipt he approached/enquired with you about refund of the money and you advised him not to talk about the investment and sent him out of the branch. It had come to his notice that you had sent the draft to NRF in your wife's name instead of sending the same as per the scheme by filling registration from in his name; when he met you after five months again to clarify his doubts you took him to your house and opened your computer to show him his name in the books of account of NFB but you could not show him his name nor could get his name registered in the NFB; you have been inducing Hassan Branch Customers in the above said scheme in which you wife is also one of the members and getting lakhs of rupees as income and that you are resorting to mis-deeds and illegal business as a Bank employee.

That there has been another complaint dtd 9.11.2005 by one Smt. Nagamma (SB a/c No. 41347) alleging against you that-she had availed a loan of Rs. 40000/- from the branch under PDS on the basis of her salary; you assured her that if she invests Rs. 31581/- out of the loan amount in NFB, in which you wife is a member, she will get Rs. 15.00 lakhs from NFB; you sent the draft yourself to NFB assured her that you will get the amount multiplied as stated above but she did not get any money and thereby cheated her; when she approached you, you also threatened her of dire consequences.

That it has been informed by Sri C. B. Byre Gowda, SB A/c No. 43754 that you canvassed him to be a member and in turn Sri Byre Gowda had canvassed Donations from Dr. R. Nagendra, Dy. Director, Veterinary Science, Hassan and Sri S. P. Lakshme Gowda working at Veterinary Hospital, Hassan and that Sri Byre Gowda closed his SB A/c as there was some pressure from you to invest his savings and earnings in in which your wife is involved; that you have reportedly visited Nursing College at Hassan, Rajeev Nursing Home and Many others such As Dr. Rajiv, Dr. Rathna, Sri Manjunath, Sri Ghouse Khan, Sri C Byre Gowda, etc., at their place and collected the Donation amounts.

III. As against the above it has been observed that:

(i) You have utilized the period of work not only for out Door duties entrusted to you but used business/office hours for canvassing business Donations from the branch customers to NFB on behalf of your wife.

(2) SB A/c 43677 of your wife is briskly operated and credit to the extent of Rs. 19.17 lakhs were received during 2004-05; almost all credit slips are in your handwriting indicating that you are going business of canvassing Donations to NFB from the customers of our Hassan Branch in the name of your wife and crediting the amount collected from the customers to your wife's account first and then sending the DDs to the NFB your wife is operating a SB a/c bearing No. 1164 at UTI, Bank, Hassan for receiving commissions from NFB. As many as 148 DD challans are found to be in your handwriting which account for DDS worth Rs. 33.08 lakhs for a period of 16 months from Sept. 2003 to Dec. 2004 as furnished hereunder:

Sl.No.	No. of Slips	Year	Month	Amount of DD (Canvassed) (Rs. in Lakhs)
1	1	2003	September	0.32
2	6	2003	October	1.16
3	3	2003	November	0.24
4	11	2003	December	0.94
5	10	2004	January	1.16
6	21	2004	February	3.10
7	30	2004	March	3.03
8	12	2004	April	1.21
9	7	2004	May	0.63
10	6	2004	June	0.47
11	6	2004	July	0.60
12	6	2004	August	0.81
13	20	2004	September	16.88
14	3	2004	October	0.65
15	4	2004	November	1.52
16	2	2004	December	3.36
Total				33.08

(3) You have mainly induced the existing as well as prospective customer of the branch along with your co-brother Sri Shivaprakash to purchase Drafts out of the funds lying in SB/CA A/c or by tendering cash on reflected in the monthwise remittance particulars furnished below which amount to huge value of Rs. 56.68 lakhs within a period of twenty months from September 2003 to July 2005:

Sl.No.	Year	Month	Amount of DD (Canvassed) (Rs. in Lakhs)
1	2003	September	1.39
2	2003	October	1.82

Sl.No.	Year	Month	Amount of DD (Canvassed) (Rs. in Lakhs)
3	2003	November	0.65
4	2003	December	4.53
5	2004	January	1.96
6	2004	February	4.53
7	2004	March	5.43
8	2004	April	2.52
9	2004	May	1.48
10	2004	June	2.02
11	2004	July	2.13
12	2004	August	2.09
13	2004	September	21.80
14	2004	October	0.80
15	2004	November	2.63
16	2004	December	0.55
17	2005	January	0.21
18	2005	February	0.12
19	2005	June	0.02
20	2005	July	0.02
Total			56.08

(4) From the above it has been revealed that you have been doing business of canvassing Donations of NFB in the name of your wife in association with your co-brother. There have been also withdrawals by transfer entries. Cheques from the account of the customers for purchasing drafts in favour of NFB. Sir Shivaprakash, your co-brother has also been depositing huge amounts and purchasing DDs in favours of NFB. The account numbers noted in the draft issued challans were those pertaining to him (SB 42141) or to his wife Smt. Latha (SB A/c 42322) and you used to introduce Branch customers to Smt. Latha for canvassing Donations of NRF. In the process huge cash and cheques were deposited in her account also.

(5) As per the correspondence relating to sharing the commission received from NEB for the Donations canvassed, it has been observed that your wife Smt. Gayathri K.S. has received commission of Rs. 1035485/- for the period from 01.09.2004 to 31.10.2004, Rs. 1035485/- for the month of November 2004 and Rs. 116386/- for December 2004. She had been given Industrial Dispute No. 1092534 while you Industrial Dispute No. being 48130, your father's (Shri Sathyanarayana) as 95256, your brother's (Shri Ambika Prasad) as Industrial Dispute No. 100485 and your sisters (Ms. Sudha) Industrial Dispute No. as 100404 thereby

showing that all your family members were doing the same business.

(6) From the foregoing, it is also observed that your wife has been maintaining the SB A/c in which huge cash amounts were deposited apparently canvassed from the Branch customers/outside, and DDs were sent to NFB either by debiting her account or out of cash collected/ remitted to the branch with her name/account numbers in the DD Slip, you were also depositing huge cash/cheques in both your accounts other than the salary apparently being the money collected from the customers/outside for credit to you/your wife's account as a first step, to be withdrawn later for purchase of DDs in the name of NFB in which you wife is a member; Your family member *i.e.*, wife co-brother, father, brother and sister are doing this business either independently or in the name of other family members and sharing the commission; you had prepared DD Challans, drafts (A/c. withdrawal slip) in respect of Sri Deva Gowda/Smt. Nagama but instead of sending DD purchased in their name, sent the same to NFB in the name of your wife and thereby abused your official position and acted detrimental to the interest of the Bank.

IV. The following are the irregularities/lapsed observed against you in the matter:

a. You have been doing the business of collecting Donations from the through the customers of our Hassan Branch and earned incentive/illegal income of Rs. 2.71 lakhs which is outside the scope of your employment/service conditions.

b. There were unusual transaction in your SB and OD A/cs and the amount transacted were huge and beyond your salary and known source of income.

c. You prepared the loan Documents of Smt. Nagamma (borrower) and lured her to invest the loan proceeds in the scheme formulated by NFB and prepared a Demand Draft of Smt. Nagamma (Loanee/complainant) and Shri Deve Gowda (Depositor/Complainant) and sent the DDs to NFB either to register the amount in your own name or in the name of Smt. Gayathre K S your wife.

d. You have been doing the business of collecting donations from the through the customers on behalf of your other family members more particularly in your wife's name who received huge incentive on Rs. 17.13 lakh till date through she is basically a housewife without having any specific/confirmed job or business to earn such huge amount.

e. By doing the business of collecting the Donations you have missed the official position/duties as marketing staff of the Branch and diverted more than half a crore of business of the Bank to NFB, an act which is not only detrimental to the interest of the Bank but also violative of your duty/service conditions.

The above lapses/irregularities being serious in nature and the acts/omissions being highly objectionable amount to misconducts under the provisions of Bipartite Settlement (MOS) dtd. 10.04.2002.

You are therefore charged with the commission of gross misconducts of—

"engaging in any trade or business outside the scope of your duties except with the permission of the Bank" *vide* clause No. 5(a) of MOS dt. 10.04.2002.

AND

"Doing any act prejudicial to the interest of the Bank" *vide* clause No. 5(i) of MOS dt. 10.04.2002.

A list of Documents and witness relied upon are annexed hereto and copies of such Documents are enclosed.

You are requested to submit your explanation, if any, to this charge sheet within 7 days of its receipt.

Your faithfully,

Sd/-
Asst. General Manager &
Disciplinary Authority"

5. Being not satisfied with the reply of the I Party dated 04.04.2007 the Disciplinary Authority while appointing Sh. P Jagannatha Rao as Enquiry Officer and Sh. S. Sridhara Rao as Presenting Officer *vide* order dated 21.04.2007 ordered to face him Domestic Enquiry. The Enquiry Officer while securing the presence of CSE who appeared along with Sh. S. B. Saiprakash as Defence Representative after observing the formalities of preliminary hearing by consent marked MEx- 1 to MEx - 257 the detailed description of which are narrated in the Annexure, recorded the evidence of Sh. H.D. Sherigar, Investigating Officer as MW 1 for the management and marked DEx - 1 to DEx - 27 the detailed description of which are narrated in the annexure in the cross-examination of MW 1 and statement of CSE concluding the enquiry receiving the written briefs of both the sides submitted his enquiry report dated 12.11.2007 all charges are being proved. Then the Disciplinary Authority while affording the opportunity of hearing imposed the punishment of Dismissal from service and on appeal the Appellate Authority as well giving an opportunity of hearing confirmed the order of the Disciplinary Authority and dismissed the appeal. Then the I Party approached the ALC(C), Hubli and as he submitted FOC dated 23.08.2010 it resulted in this reference.

6. On completion of the pleadings having regard to the certain allegations made in the claim statement while raising a Preliminary issue as to

"Whether the Domestic Enquiry held against the I Party by the II Party is fair and proper?"

after receiving the evidence of both the sides the same has been answered in Affirmative *i.e.*, the Domestic Enquiry

held against the I Party by the II Party being fair and proper by order dated 12.09.2012 and thereafter the I Party by filing his affidavit led evidence being not gainfully employed after his Dismissal from Service the points that now arises for my consideration are:

POINT NO. I: Whether the I Party demonstrates the finding of the Enquiry Officer the charge are proved being perverse necessitating the interference of this tribunal?

POINT NO. II: If not, whether the punishment of Dismissal imposed by the Disciplinary Authority and affirmed by the Appellate Authority are proportionate to misconduct proved against I Party?

POINT NO. III: What Order/Award?

7. After the I Party led evidence being not gainfully employed and counsel for II Party submitted that he has no rebuttal evidence, I Party filed his written arguments whereas the learned advocate appearing for the II Party addressed his oral arguments.

8. On appreciation of the charges levelled against the I Party with the oral and Documentary evidence placed on record in the Domestic Enquiry and the evidence of the I Party being not gainfully employed in the light of the arguments put forward by both the sides, my finding on Point No. 1 is in the affirmative and Point No. II and III are as pre final order for the following

REASONS

9. POINT NO. I: It is the specific case of the II Party that on a complaint dated 27.04.2005 received from Sh. Devegowda an SB Account Holder bearing No. 13335 alleging that when he had been to the Bank for making a Fixed Deposit of Rs. 32000.00 in the name of his Grand-Daughter the I Party telling him not to invest in FD with the II party Bank and that he would be getting monthly income of Rs. 20000.00 if he invests the said amount in a Scheme called National Federation of the Blind (NFB) and prepared a challan for purchasing a draft for Rs. 31581.00 in his name favouring NFB and obtained his signature for registering his name with NFB and as he did not receive any receipt either from I Party or from NFB he asked the I Party to refund the money and return he advised him not to talk about the investment and sent him out of the branch and that it has come to his notice I Party had sent the draft to NFB in his wife's name instead of sending the same as per the scheme by filling the registration form in his name and again met the I Party after five months to clarify his doubts he took to his house to show him in the books of account of NFB in his computer but did not show him his name in the books of account of NFB in his computer but the I Party could not show him his name nor his name registered in NFB and he has been inducing Hassan Branch customers to invest money in the said Scheme wherein his wife is also one of

the member and getting lakhs of Rupees as income and subsequently another complaint dated 09.11.2005 of Similar nature by Smt. Nagamma SB Account Holder No 41347 and another SB holder Sh. C. Byregowda, A/c No. 43754 also informed that being canvassed by I Party he arranged for Donations from Dr. R Nagendra, Deputy Director, Veterinary Science, Hassan; Sh. S PLashme Gowda, working at Veterinary Hospital and he too closed his SB Account and invested his savings in that Scheme, getting investigated through Sh. H.D. Sherigar, this charge sheet came to be issued, the Enquiry Officer only on examination of Sh. H.D. Sherigar, Investigating Officer and with consent of the Defence Representative exhibiting 257 documents as MEx-1 to MEx-257 for the management which do consist of several alleged complaints and statement of the Bank Customers complaining inducement by the I Party to divert their investment in the NFB Scheme without the examination of the primary witnesses concluded the charges being proved. When it is the case of the II party that initially on a written complaint received from a SB Account Holder Sh. Devegowda they started investigation and later another complaint dated 09.11.2005 by Smt. Nagamma and oral information by Sh. Byregowda, holder of SB A/c No.45334 were recived in the absence of the examination of such primary witnesses *i.e.*, complainants and the other customers said to have came out with a version that they were induced by the I Party to divert their investment and investment to be made in the II Party Bank towards NFB Scheme being not at all testified only on the statement of the Investigation Officer they have stated before him in such a fashion ought not to have been relied upon. The fact that certain bank customers were induced by the I Party to divert their investment and investments to be amde in the II Party bank towards NFB Scheme by the I Party it is a matter that could be spoken to only by such customers and the evidence of the Investigating Officer that they have confirmed before him during the investigation being induced to divest their investment cannot be a primary evidence and could not be believed in the absence of such complainants and informers testified themselves in the enquiry. Only because some of the challans for obtaining the DD, loan Documents of some of the customers are in the handwriting of the I Party it cannot be concluded that he induced such customers to divest their investment and investments to be made in the II Party bank towards NFB Scheme. Since it is the version of the II Party itself he who was entrusted with the duties of attending at 'May I Help You counter, issue of withdrawal slip, filling SB a/c opening forms in the first hour of the bank it is natural when customers approach him at the Help Desk he may have helped them in filling the challans for DD; account opening forms etc., as such because certain withdrawal slips, challans for obtaining the DD, loan documents of some of the customers are found in the handwriting of I Party the same cannot be made use of to

conclude that he induced them to divert their investment or investment to be made in the II Party towards the NFB Scheme. In the present case though the CSE/Defence Representative made a request to make them available the alleged customers for cross-examination it was denied by the Enquiry Officer, therefore, he proceeding to hold the charge as proved based on the sole version of Sh. H.D. Sherigar claims to have investigated into the matter is baseless and perverse. In the result, I arrive at conclusion of answering this point in the Affirmative.

10. POINT No. II & III: In view of my finding on Point No. I, the punishment of Dismissal imposed against the I Party based on the finding of the Enquiry Officer since DD not sustain the I Party is entitle for Reinstatement into Service. The I Party having given evidence that he is not gainfully employed after his Dismissal from Service, except bald suggestion in his cross-exmination that he has been gainfully employed no Positive evidence being brought on record either circumstantial or direct to believe that he has been gainfully employed in my opinion he is entitle for full backwages and all other consequential benefits his reinstatement. In the result, I pass the following:

ORDER

The Punishment of Dismissal imposed on Shri S. Ravish Kumar, E. No. 431950, Stenographer by the management of Syndicate Bank *Vide* order No. 2521/ROM/PC/JBG dated 08.09.2008 is not legal and justified and that he is entitle for reinstatement with full backwages, continuity of Service and all other consequential benefits that he would have been entitle in the absence of the impugned punishment order.

(Dictated to U.D.C, transcribed by him, corrected and signed by me on 7th April 2015)

S. N. NAVALGUND, Presiding Officer

ANNEXURE-I

DOCUMENTS EXHIBITED ON BEHALF OF THE MANAGEMENT IN DOMESTIC ENQUIRY

MEx-1	:	Personal profile of Sri S. Ravish Kumar
MEx-2	:	Certified Xerox copy of Attendance Register of Hassan Branch for the month of November, 2005 in respect of officer employees
MEx-3	:	Certified Xerox copy of Attendance Register of Hassan Branch for the month of November, 2005 in respect of workman employees
MEx-4	:	Certified Xerox copy of Staff Card of Sri S. Ravish Kumar, Stenographer, Emp. No. 431954 of Hassan Branch

MEx-5	:	Certified Xerox copy of Office Order book-Part III dt.16.4.03			for Rs. 21196/-, (iii) slip dtd. 18.3.2004 for Rs. 42392/- favouring the National Federation of the Blind along with DD Issue Register extract dt. 18.3.2004
MEx-6	:	Xerox copy of hand-out regarding National Federation of the Blind			
MEx-7	:	Original deposition dt. 8.11.2005 of Sri Dave Gowda	MEx - 17	:	Statement of SB A/c. No. 34128 of Sri Ravish Kumar S. with Hassasn Branch
MEx-8	:	Statement of SB A/c No. 13335 of Sri Dave Gowda	MEx - 18	:	Statement of OD A/c 1193 of Sri Ravish Kumar, Hassan Branch
MEx-9	:	Certified Xerox copy of OD slips dt. 8.9.04 for-Rs. 15670/-, 2DD slips dtd. 9.9.04 of Rs. 31646/- and Rs.285843/- respectively favouring The National Federation of the Blind and cheque No. 92933 dt. 9.9.04 for Rs. 285843/- of Smt. Gayathri and DD slip dated 13.9.2004 for Rs. 24196/- favouring The National Federation of the Blind	MEx - 19	:	Orgl. deposition dt. 12.11.2005 of Sri Ravish Kumar, Emp. No. 431954, Stenographer
			MEx - 20	:	Joint Visit report dated 12.11.2005
			MEx - 21	:	Statement of SB A/c. No. 43677 of Smt. Gayathri with Hassan Branch
			MEx - 22	:	Certified Xerox copy of credit slip dt. 29.1.2004 for Rs. 40000/- to SB A/c No. 43577 of Smt. M.S. Gayathri
MEx-10	:	Original deposition dt. 9.11.2005 of Smt. Nagamma	MEx - 23	:	Certified Xerox copy of OG 72/73 dt. 22.1.04 for Rs. 29222/- to of Smt. Gayathri
MEx-11	:	Certified Xerox copy of letter dt. 6.9.04 of Hassan Branch to UES PU College, Hassan along with Salary Certificate dt. 1.9.04 of Sri. Ganesh A.H., Lecture, AHG PU College, Hassan and Certificate dt. 1.9.04 of Smt. Nagamma, letter employer's letter regarding Smt. Nagamma, Process Note dt. 7.9.04 application for advance of Sri Ganesha, Annexure 2 from Sri A.H. Ganesha dt. 9.9.04, ASD-6 dt.9.9.04 executed by Sri Ganesha, Annexure 1 of Smt. Nagamma dt. 9.9.04:-80, Schedule III, loan Documents executed by Smt. Nagamma, OG-28 of Smt. Nagamma, BCS Register.	MEx - 24	:	Certified Xerox copy of Credit slip dt. NIL for Rs. 25600/- to SB 43677 of Smt. K.S. Gayathri
			MEx - 25	:	Certified Xerox copy of Credit slip dt. 12.2.2004 for Rs. 3000/- to SB 43677 of Smt. Gayathri
			MEx - 26	:	Certified Xerox copy of Credit slip dt. 9.3.04 for Rs. 20000/- to SB 43677 of Smt. K.S. Gayathri
			MEx - 27	:	Certified Xerox copy of OG 72/73 dt. 10.3.04 for Rs. 21,564/- to SB 43677 of Smt. Gayathri
MEx-12	:	Certified Xerox copy of Office order book-Page 73 (w.e.f. 16.9.05)	MEx - 28	:	Certified Xerox copy of Credit slip dt. 5.4.04 for Rs. 13000/- to SB A/c. 43677 of Smt. Gayathri
MEx-13	:	Statement of SB A/c No. 41347 of Smt. Nagamma	MEx - 29	:	Certified Xerox copy of Credit Slip dt. 27.04.2004 for 11000/- to SB A/c. 43677 of Smt. Gayathri
MEx - 14	:	Certified Xerox copy of withdrawal slip no. 770839 dt. 7.9.04 for Rs. 31651/- of Sri Dave Gowda of 2 DD slips dt. 7.9.04 for Rs. 31651/- and Rs. 7072/- respectively favouring The National Federation of the Blind	MEx - 30	:	Certified Xerox copy of Credit slip dtd. 28.04.2004 for Rs. 10,000/- to SB A/c. No. 43677 of Smt. Gayathri
			MEx - 31	:	Certified Xerox copy of Credit slip dtd. 30.4.2004 for Rs. 20,000/- to SB A/c. 43677 of Smt. Gayathri
MEx - 15	:	Certified Xerox copy of DD slip dated 29.10.03 for Rs. 1064/- favouring National Federation of the Blind along with DD issue Register extract dtd. 29.10.2003	MEx - 32	:	Certified Xerox copy of OG 72/73 dt. 8.6.04 for Rs. 50886 to SB A/c No. 43677 of Smt. Gayathri
MEx - 16	:	Certified Xerox copy of DD slip dated 18.3.2004 for Rs. 2630/- (iii) slip dtd. Nil	MEx-33	:	Certified Xerox copy of Credit Slip dt. 9.6.04 for 55000/- to SB A/c No. 43677 of Smt. Gayathri

MEx - 34	:	Certified Xerox copy of Credit slip dtd. 9.8.04 for 32220/- to SB A/c No. 43677 of Smt. Gayathri	MEx - 50	:	Certified Xerox copy of Credit slip dtd. 10.11.04 for Rs. 49900/- to SB A/c. No. 43677 of Smt. Gayathri
MEx - 35	:	Certified Xerox copy of Credit slip dtd. 9.6.04 for Rs. 30,000/- to SB A/c. No. 43677 of Smt. Gayathri	MEx - 51	:	Certified Xerox copy of Credit slip dtd. 29.11.04 for Rs. 73,000/- to SB Alc. No. 43677 of Smt. Gayathri
MEx - 36	:	Certified Xerox copy of Credit slip dtd. 23.6.04 for Rs. 40000/- to SB A/c. No. 43677 of Smt. Gayathri	MEx - 52	:	Certified Xerox copy of Credit slip dtd. Nil for Rs. 830001/- to SB A/c No. 43677 of Smt. Gayathri
MEx - 37	:	Certified Xerox copy of Credit slip dtd. 28.7.04 for Rs. 40000/- to SB A/c. No. 43677 of Smt. Gayathri	MEx - 53	:	Certified Xerox copy of Credit slip dtd. 15.3.05 for Rs. 100000/- to SB A/c. No. 43677 of Smt. Gayathri
MEx - 38	:	Certified Xerox copy of Credit slip dtd. Nil for Rs. 49900/- to SB A/c. No. 43677 of Smt. Gayathri	MEx - 54	:	Certified Xerox copy of Credit slip dtd. 31.3.05 for Rs. 10600/- to SB A/c. No. 43677 of Smt. Gayathri
MEx - 39	:	Certified Xerox copy of Credit slip dtd. 2.9.04 for Rs. 40000/- to SB A/c. No. 43677 of Smt. Gayathri	MEx - 55	:	Certified Xerox copy of DD slip dtd. 11.9.03 for Rs. 1064/- favouring National Federation of the Blind along with extract of DDs issue register dt/ 11.9.03
MEx - 40	:	Certified Xerox copy of OG/19 dtd. 15.9.04 for Rs. 18149/- to SB A/c. No. 43677 of Smt. Gayathri	MEx - 56	:	Certified Xerox copy of OD slip dtd. 19.09.03 for 48432/- and DD slip dtd. 19.09.03 for Rs. 481201/- favouring National Federation of the Blind-along with extract of DD issue Register dtd. 19.9.2003
MEx - 41	:	Certified Xerox copy of Credit slip dtd. 20.9.04 for Rs. 85,000/- to SB A/c. No. 43677 of Smt. Gayathri	MEx - 57	:	Certified Xerox copy of DD slip dtd. 22.8.03 for Rs. 271.00 favouring National Federation for the blind along with DD Issue Register dt. 22.9.2003
MEx - 42	:	Certified Xerox copy of Credit slip dtd. Nil for Rs. 45000/- to SB Ale. No. 43677 of Smt. Gayathri	MEx - 58	:	Certified Xerox copy of DD slip dtd. 24.09.03 favouring National Federation for the blind for Rs. 4979/- along with Certified Xerox copy of DD Issue Register 24.09.03
MEx - 43	:	Certified Xerox copy of Credit slip dtd. Nil for Rs. 45000/- to SB A/c. No. 43677 of Smt. Gayathri	MEx - 59	:	Certified Xerox copy of DD slip dtd. 26.09.03 for Rs. 316611-Fvg National Federation for the Blind along with OD Issue register extract dtd. 26.9.03
MEx - 44	:	Certified Xerox copy of Credit slip dtd. 20.9.04 for Rs. 115000/- to SB A/c. No. 43677 of Smt. Gayathri	MEx - 60	:	Certified Xerox copy of DD slip dtd. 27.09.2003 for Rs. 1,325/- favouring National Federation of the Blind along with Certified Xerox copy of Demand Draft Issue Register dt. 27.9.2003
MEx - 45	:	Certified Xerox copy of Credit slip No. 21.09.04 for Rs. 47000/- to SB A/c. No. 43677 of Smt. Gayathri	MEx - 61	:	Certified Xerox copy of DD slip dtd. 29.09.2003 for Rs. 3152/- favouring National Federation of the Blind along with Certified Xerox copy of DD issue Register dt. 29.9.2003
MEx - 46	:	Certified Xerox copy of Credit slip dtd. 21.9.04 for Rs. 40000/- to SB A/c. No. 43677 of Smt. Gayathri	MEx - 62	:	Certified Xerox copy of DD slip dtd. 01.10.2003 for Rs. 14654/- favouring National Federation of the Blind along
MEx - 47	:	Certified Xerox copy of Credit slip dtd. 28.9.04 for Rs. 20000/- to SB A/c. No. 43677 of Smt. Gayathri			
MEx - 48	:	Certified Xerox copy of Credit slip dtd. 30.10.04 for Rs. 20000/- to SB A/c. No. 43677 of Smt. Gayathri			
MEx - 49	:	Certified Xerox copy of Credit slip dtd. 10.11.04 for Rs. 40100/- to SB A/c. No. 43677 of Smt. Gayathri			

	with Certified Xerox copy of Demand Draft Issue Register dt. 1.10.2003		Federation of the Blind along with DD Issue Register extract dtd. 6.11.2003
MEx -63	: Certified Xerox copy of Demand Draft Issue Register dt. 8.10.2003 together with Certified Xerox copy of DD slip dated 8.10.03 for Rs. 105081- and DD Slip dt. 8.10.2003 for Rs. 783/- favouring National Federation of the Blind	MEx-72	: Certified Xerox copy of DD slip dated 11.11.2003 for Rs. 10467.50/- favouring National Federation of the Blind along with DD Issue Register extract dtd. 11.11.2003
MEx -64	: Certified Xerox copy of DD slip dtd. 9.10.2003 for Rs. 1064/- favouring National Federation of the Blind along with DD Issue Register extract dtd. 9.10.2003	MEx-73	: Certified Xerox copy of DD slip dated 13.11.2003 for Rs. 94211- favouring National Federation of the Blind along with DD Issue Register extract dtd. 13.11.2003
MEx -65	: Certified Xerox copy of DD slip dtd. 11.10.03 for Rs. 28422/-favouring National Federation of the Blind along with DD Issue Register extract dated 11.10.2003	MEx-74	: Certified Xerox copy of DD slip dated 15.11.2003 for Rs. 4457/- favouring National Federation of the Blind along with DD Issue Register extract dtd. 15.11.2003
MEx -66	: Certified Xerox copy of DD slips dtd. 20.10.03 for Rs. 95 196/- (2) DD slip dtd. 20.10.2003 for Rs. 7163/- favouring National Federation of the Blind and (i) cheque No. 76395 dtd. 20.10.03 for Rs. 95196/- and (2) cheque No. 76396 dtd. 20.10.2006 for Rs. 7163 favouring "yourselves " along with DD issue Register extract dt. 20.10.2003	MEx-75	: Certified Xerox copy of DD slip dated 17.11.03 for Rs. 4718/- favouring National Federation of the Blind along with DD Issue Register extract dtd. 17.11.2003.
MEx -67	: Certified Xerox copy of DD slip dtd. 23.10.03 for Rs. 6811/- favouring National Federation of the Blind along with DD Issue Register extract dtd. 23.10.2003	MEx-76	: Certified Xerox copy of DD slips (I) dated 14.11.03 for Rs. 3152 and (ii) 18.11.2003 for Rs. 15700/- favouring National Federation of the Blind along with DD Issue Register extract dtd. 18.11.2003
MEx -68	: Certified Xerox copy of DD slip dtd. NIL for Rs. 5245/-favouring National Federation of the Blind along with DD Issue Register extract dtd. 27.10.2003	MEx-77	: Certified Xerox copy of DD slip dated 05.12.20003 for Rs. 31661 favouring the National Federation of the Blind along with DD Issue Register extract dtd. 5.12.2003
MEx-69	: Certified Xerox copy of DD slip dated 28.10.03 for Rs. 11248/- favouring National Federation of the Blind along with, withdrawal slip dt. 28.10.2003 for Rs. 12565/- of Smt. Sujatha N along with DD Issue Register extract dtd. 28.10.2003	MEx-78	: Certified Xerox copy of DD slip dated 06.12.03 for Rs. 7067/- favouring the National Federation of the Blind along with DD Issue Register extract dtd. 6.12.2003
MEx-70	: Certified Xerox copy of DD slip dated 4.11.2003 for Rs. 5767/- favouring National Federation of the Blind along with DD Issue Register extract dtd. 4.11.2003	MEx-79	: Certified Xerox copy of DD slip dtd. Nil for Rs. 7072 and (ii) slip dtd. 8.12.2003 for Rs. 6207/- favouring the National Federation of the Blind along with DD issue Register extract dtd. 8.12.2003
MEx-71	: Certified Xerox copy of (a) Withdrawal slips dt. 6.11.03 for Rs. 3152/- Smt. Kumudha S (b) DD, slips dated 6.11.03 for Rs. Rs. 4196/-. (c) slip dt. 6.11.2003 for Rs. 3152/- and (d) slip dtd. 26.11.03 for Rs. 3152/- favouring National	MEx-80	: Certified Xerox copy of DD slip dtd. 12.02.2003 for Rs. 2103/- and (ii) slip dtd. 9.12.2003 for rs. 14132/- favouring the National Federation of the Blind along with DD Issue Register extract dtd. 9.12.2003
		MEx-81	: Certified Xerox copy of DD slip dtd. 10.12.2003 for Rs. 9682/- favouring the

	National Federation of the Blind along with DD Issue Register extract dt. 10.12.2003	MEx-91	: Certified Xerox copy of DD slip dt. 30.12.2003 for Rs. 7855/- favouring the National Federation of the Blind along with DD Issue Register extract dt. 30.12.2003
MEx-82	: Certified Xerox copy of DD slip dt. 12.12.2003 for Rs. 14126/- favouring the National Federation of the Blind along with DD Issue Register extract dt. 13.12.2003	MEx-92	: Certified Xerox copy of DD slip dt. Nil for Rs. 2630/- and slip dt. 31.12.2003 for Rs. 7855/- favouring the National Federation of the Blind along with DD Issue Register extract dt. 31.12.2003
MEx-83	: Certified Xerox copy of DD slip dt. 13.12.2003 for Rs. 14132 and slip dt. 13.12.2003 for Rs. 5245 favouring the National Federation of the Blind along with DD Issue Register extract dt. 15.12.2003	MEx-93	: Certified Xerox copy of DD Issue Register extract dt. 3.12.2003
		MEx-94	: Certified Xerox copy of DD Issue Register extract dt. 18.12.2003
MEx-84	: Certified Xerox copy of DD slip dt. 15.12.2003 for Rs. 10478/- favouring the National Federation of the Blind along with DD Issue Register extract dt. 15.12.2003	MEx-95	: Certified Xerox copy of DD Issue Register extract dt. 23.12.2003
		MEx-96	: Certified Xerox copy of DD Issue Register extract dt. 26.12.2003
MEx-85	: Certified Xerox copy of DD slip dt. 16.12.2003 for Rs. 5245/- favouring the National Federation of the Blind along with DD Issue Register extract dt. 16.12.2003	MEx-97	: Certified Xerox copy of DD slip dt. 01.01.2004 for Rs. 5245 favouring the National Federation of the Blind along with DD Issue Register extract dt. 01.01.2004
MEx-86	: Certified Xerox copy of DD slip dt. 17.12.2003 for Rs. 5245/- and (ii) Slip dated 17.12.2003 for Rs. 7072/- favouring the National Federation of the Blind along with DD Issue Register extract dt. 17.12.2003	MEx-98	: Certified Xerox copy of DD slip dt. Nil for Rs. 20933/- favouring the National Federation of the Blind along with DD Issue Register extract dt. 3.1.2004
		MEx-99	: Certified Xerox copy of DD slip dt. Nil for Rs. 1064/- and (ii) slip dtd. Nil for 5.1.2004 Rs. 7072/- favouring the National Federation of the Blind along with DD Issue Register extract dt. 3.1.2004
MEx-87	: Certified Xerox copy of DD slip dt. 19.12.2003 for Rs. 7072/- favouring the National Federation of the Blind along with DD Issue Register extract dt. 19.12.2003	MEx-100	: Certified Xerox copy of DD slip dt. Nil for Rs. 1064/- and (ii) slip dtd. Nil for Rs. 3679/- and (iii) Slip dtd. No. for Rs. 7047/- favouring the National Federation of the Blind along with DD Issue Register extract dt. 6.2.2004
MEx-88	: Certified Xerox copy of DD slip dt. 22.12.2003 for Rs. 7072/- favouring the National Federation of the Blind along with DD Issue Register extract dt. 22.12.2003	MEx-101	: Certified Xerox copy of DD Slip dt. 14.1.2004 for Rs. 35307/- favouring the National Federation of the Blind along with DD issue Register extract dt. 14.1.2004
MEx-89	: Certified Xerox copy of DD slip dt. 23.12.2003 for Rs. 11514/- favouring the National Federation of the Blind along with DD Issue Register extract dt. 23.12.2003	MEx-102	: Certified Xerox copy of DD Slip dt. 19.1.2004 for Rs. 15436/- favouring the National Federation of the Blind along with DD issue Register extract dt. 19.1.2004
MEx-90	: Certified Xerox copy of DD slip dt. Nil for Rs. 7072/- and (ii) Slip dated 27.12.2005 for Rs. 17532/- favouring the National Federation of the Blind along with DD Issue Register extract dt. 27.12.2003	MEx-103	: Certified Xerox copy of DD Slip dt. Nil for Rs. 28768/-, (ii) slip dt. 23.1.04 for

		Rs. 20933/- favouring the National Federation of the Blind, (iii) withdrawal slip dt. 23.1.2004 for Rs 28768/- of SB A/c No. 41436 along with DD issue Register extract dt. 23.1.2004			of the Blind along with DD issue Register extract dt. 11.2.2004
MEx-104	:	Certified Xerox copy of DD Slip dt. NIL for Rs. 2108/- favouring the National Federation of the Blind along with DD issue Register extract dt. 27.2.2004	MEx-113	:	Certified Xerox copy of DD Slip dt. 12.02.2004 for Rs. 10468/- favouring the National Federation of the Blind along with DD issue Register extract dt. 12.02.2004
MEx-105	:	Certified Xerox copy of DD slip dt. NIL for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 28.1.2004	MEx-114	:	Certified Xerox copy of DD Slip dt. 17.2.2004 for Rs. 798/- (ii) slip dtd. 17.2.2004 for Rs. 28261/- (iii) slip dtd. 17.2.2004 for Rs. 10465/- (iv) slip dated 17.2.04 for Rs. 7072/- (v) slip dated nil for Rs. 1325/- (vi) slip dated 17.2.04 for Rs. 1586/- favouring the National Federation of the Blind along with DD issue Register extract dt. 17.2.2004
MEx-106	:	Certified Xerox copy of DD slip dt. NIL for Rs. 18308/- (ii) slip dtd. Nil for Rs. 793/- favouring the National Federation of the Blind (iii) withdrawal slip dtd. 29.1.2004 for Rs. 18308/- of SB A/c. No. 41436 along with DD issue Register extract dt. 29.1.2004	MEx-115	:	Certified Xerox copy of DD slip dt. Nil for Rs. 28261 (ii) slip dtd. Nil for Rs. 42392/- favouring the National Federation of the Blind along with DD issue Register extract dt. 19.2.2004
MEx-107	:	Certified Xerox copy of DD slip dt. 05.12.2003 for Rs. 31661/- favouring the National Federation of the Blind along with DD issue Register extract dt. 5.12.2003	MEx-116	:	Certified Xerox copy of DD slip dt. 20.2.2004 for Rs. 28261/- (ii) slip dt. 20.2.2004 for Rs. 7072/- (iii) slip dt. 20.2.04 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 20.2.2004
MEx-108	:	Certified Xerox copy of DD slip dt. NIL for Rs. 21185/- favouring the National Federation of the Blind (ii) withdrawal slip No. 112368 dt. 31.1.2004 for Rs. 21185/- of SB 42141 along with DD issue Register extract dt. 31.1.2004	MEx-117	:	Certified Xerox copy of DD slip dt. 23.4.2004 for Rs. 21196/- favouring the National Federation of the Blind along with DD issue Register extract dt. 23.2.2004
MEx-109	:	Certified Xerox copy of DD Slip dt. 05.02.2004 for Rs. 14132/- favouring the National Federation of the Blind along with DD issue Register extract dt. 05.02.2004	MEx-118	:	Certified Xerox copy of DD slip dt. 25.2.2004 for Rs. 28261/- (ii) slip dtd. 25.2.2004 for Rs. 14654/- and (iii) slip dtd. 25.2.2004 for Rs. 35307/- favouring the National Federation of the Blind along with DD issue Register extract dt. 25.2.2004
MEx-110	:	Certified Xerox copy of DD slip dt. NIL for Rs. 41805/- (ii) slip dtd. NIL for Rs. 10729/- (iii) slip dt. Nil for Rs. 41865/- favouring the National Federation of the Blind along with DD issue Register extract dt. 9.2.2004	MEx-119	:	Certified Xerox copy of DD slip dt. 26.2.2004 for Rs. 1064/- favouring the National Federation of the Blind along with DD issue Register extract dt. 26.2.2004
MEx-111	:	Certified Xerox copy of DD slip dt. 10.2.2004 for Rs. 14132/- favouring the National Federation of the Blind along with DD issue Register extract dt. 10.2.2004	MEx-120	:	Certified Xerox copy of DD Slip dt. 27.2.2004 for Rs. 7072/- (ii) slip dtd. dtd. Nil for Rs. 2630/- slip dtd. 27.2.2004 for Rs. 7072/- (iii) slip dt. 27.2.2004 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 27.2.2004
MEx-112	:	Certified Xerox copy of DD slip dt. NIL for Rs. 20922/- (ii) Slip dtd. 11.2.2004 for Rs. 1064/- (iii) withdrawal slip dt. 11.2.2004 for Rs. 20922 of SB A/c No. 32246 favouring the National Federation			

MEx-121	:	Certified Xerox copy of DD slip dt. Nil for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 28.2.2004	MEx-131	:	Blind along with DD issue Register extract dt. 11.03.2004 Certified Xerox copy of DD slip dt. 13.03.2004 for Rs. 35307/- favouring the National Federation of the Blind along with DD issue Register extract dt. 13.03.2004
MEx-122	:	Certified Xerox copy of DD slip dt. Nil for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 1.3.04	MEx-132	:	Certified Xerox copy of DD slip dt. Nil for Rs. 2108/- (ii) slip dtd. 15.03.2003 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 15.03.2004
MEx-123	:	Certified Xerox copy of DD slip dt. 03.04.2004 for Rs. 7072/- (ii) slip dated 3.4.2004 for Rs. 7072/- (iii) slip dtd. 3.3.2004 for Rs. 14132/- favouring the National Federation of the Blind along with DD issue Register extract dt. 3.03.2004	MEx-133	:	Certified Xerox copy of DD slip dt. 05.12.2003 for Rs. 31661/- favouring the National Federation of the Blind along with DD issue Register extract dt. 5.12.2003
MEx-124	:	Certified Xerox copy of DD slip dt. Nil for Rs. 1064/- (ii) slip dated 05.03.2004 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 05.03.2004	MEx-134	:	Certified Xerox copy of DD slip dtd. Nil for Rs. 7072/- (ii) slip dtd. 19.3.2004 for Rs. 7072/- (iii) slip dtd. 19.03.2004 for Rs. 7072/- (iv) slip dtd. 19.03.2004 for Rs. 7072/- (v) slip dtd. 19.3.2004 for Rs. 7072/- (vi) slip dtd. 19.3.2004 for Rs. 7072/- (vii) slip dtd. 19.3.2004 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 19.03.2004
MEx-125	:	Certified Xerox copy of DD slip dt. 05.03.2004 for Rs. 7072/- (ii) slip dated 5.3.2004 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 05.03.2004	MEx-135	:	Certified Xerox copy of DD slip dt. 22.3.2004 for 14132/- and Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 27.03.2004
MEx-126	:	Certified Xerox copy of DD slip dt. 06.03.2004 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 06.03.2004	MEx-136	:	Certified Xerox copy of DD slip dt. 23.3.2004 for Rs. 7072/-, Rs. 803/- Rs. 1325 and Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 23.03.2004
MEx-127	:	Certified Xerox copy of DD slip No. 107382 dt. 03.03.2004 for Rs. 42368/- of SB A/c No. 4241, DD slip dt. 09.03.2004 for Rs. 49429/- favouring the National Federation of the Blind along with DD issue Register extract dt. 09.03.2004	MEx-137	:	Certified Xerox copy of DD slip dt. 24.3.2004 for Rs. 1064/- favouring the National Federation of the Blind along with DD issue Register extract dt. 24.03.2004
MEx-128	:	Certified Xerox copy of DD slip No. 107256 dt. 09.03.2004 for Rs. 49429/- of SB 42141, DD slip dt. 09.03.04 for Rs. 49429/- favouring the National Federation of the Blind along with DD issue Register extract dt. 09.03.2004	MEx-138	:	Certified Xerox copy of DD slip dt. 25.3.2004 for Rs. 7072/- and 21196/- favouring the National Federation of the Blind along with DD issue Register extract dt. 25.03.2004
MEx-129	:	Certified Xerox copy of DD slip dt. Nil for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 10.03.2004	MEx-139	:	Certified Xerox copy of DD slip dt. 26.3.2004 for Rs. 4196/- favouring the National Federation of the Blind along with DD issue Register extract dt. 26.03.2004
MEx-130	:	Certified Xerox copy of DD slip dt. Nil for Rs. 21196 (ii) slip dt. 11.03.2003 for Rs. 7072/- and slip dtd. Nil for Rs. 14132/- favouring the National Federation of the			

MEx-140	:	Certified Xerox copy of DD slip dt. 30.3.2004 for Rs. 21196 and Rs. 1520/- favouring the National Federation of the Blind along with DD issue Register extract dt. 30.3.2004	MEx-150	:	Certified Xerox copy of DD slip dt. Nil for Rs. 7072/- slip dtd. 22.04.2005 for Rs. 3935/- and slip dtd. Nil for Rs. 42390/- favouring the National Federation of the Blind along with DD issue Register extract dt. 27.04.2004
MEx-141	:	Certified Xerox copy of DD issue Register extract dt. 31.03.2004	MEx-151	:	Certified Xerox copy of DD slip dt. Nil for Rs. 7072 (ii) slip dtd. Nil for Rs. 7072/- and withdrawal slip dtd. 24.4.2004 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 24.04.2004
MEx-142	:	Certified Xerox copy of DD slip dt. Nil for Rs. 7072/- (ii) slip dt. 02.04.2004 for Rs. 7072/- (iii) slip dtd. 19.03.2004 for Rs. 7072/- (iv) slip dtd. 19.3.2004 for Rs. 7072/- (v) slip dt. 2.4.2004 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 2.4.2004	MEx-152	:	Certified Xerox copy of DD slip dt. Nil for Rs. 7072/- cheque dtd. 27.4.2004 for Rs. 14124/- favouring the National Federation of the Blind along with DD issue Register extract dt. 27.04.2004
MEx-143	:	Certified Xerox copy of DD slip dt. 3.4.2004 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 3.4.2004	MEx-153	:	Certified Xerox copy of DD slip dt. 05.05.2004 for Rs. 14132/- favouring the National Federation of the Blind along with DD issue Register extract dt. 5.5.2004
MEx-144	:	Certified Xerox copy of DD slip dt. 10.04.2004 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 10.04.2004	MEx-154	:	Certified Xerox copy of DD slip dt. Nil for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 7.5.2004
MEx-145	:	Certified Xerox copy of DD slip dt. 12.4.2004 for Rs. 7072/- (ii) dtd. Nil for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 12.04.2004	MEx-155	:	Certified Xerox copy of DD slip dt. Nil for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 10.05.2004
MEx-146	:	Certified Xerox copy of DD slip dt. 16.4.2004 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 16.04.2004	MEx-156	:	Certified Xerox copy of DD slip dt. 11.5.2004 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 11.05.2004
MEx-147	:	Certified Xerox copy of DD slip dt. Nil for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 17.04.2004	MEx-157	:	Certified Xerox copy of DD slip dt. 13.05.2004 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 13.05.2004
MEx-148	:	Certified Xerox copy of DD slip dt. Nil for Rs. 1064/- (ii) slip dt. 20.04.2004 for Rs. 7072/-, (iii) Rs. 494449/- (iv) Rs. 7072/- respectively for Rs. 31661 favouring the National Federation of the Blind along with DD issue Register extract dt. 20.04.2004	MEx-158	:	Certified Xerox copy of DD slip dt. 14.5.2004 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 14.05.2004
MEx-149	:	Certified Xerox copy of DD slip dt. 21.4.2004 for Rs. 7072/- and slip dtd. Nil for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 21.04.2004	MEx-159	:	Certified Xerox copy of DD slip dt. 15.05.2004 for Rs. 14132/- favouring the National Federation of the Blind along with DD issue Register extract dt. 15.05.2004
			MEx-160	:	Certified Xerox copy of DD slip dt. 18.05.2004 for Rs. 7072/- favouring the

	National Federation of the Blind along with DD issue Register extract dt. 18.05.2004		the National Federation of the Blind Cheque No. 85770 dt. 15.6.2004 for Rs. 21185/- along with DD issue Register extract dt. 15.06.2004
MEx-161	: Certified Xerox copy of 3 DD slip dt. 20.05.2004 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 20.05.2004	MEx-171	: Certified Xerox copy of DD slip dt. 16.06.2004 for Rs. 15700/- and Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 16.06.2004
MEx-162	: Certified Xerox copy of DD slip dt. 24.05.2004 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 24.05.2004	MEx-172	: Certified Xerox copy of DD slip dt. 18.06.04 for Rs. 7850/-favouring the National Federation of the Blind along with DD issue Register extract dt. 18.06.04
MEx-163	: Certified Xerox copy of DD slip dt. 25.05.2004 for Rs. 21196/- favouring the National Federation of the Blind along with DD issue Register extract dt. 25.05.2004	MEx-173	: Certified Xerox copy of DD slip dt. 21.06.04 for Rs. 10470/-favouring the National Federation of the Blind along with DD issue Register extract dt. 21.06.04
MEx-164	: Certified Xerox copy of DD slip dt. 26.05.2004 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 26.05.2004	MEx-174	: Certified Xerox copy of DD slip dt. 22.06.04 for Rs. 5245/-favouring the National Federation of the Blind along with DD issue Register extract dt. 22.06.04
MEx-165	: Certified Xerox copy of DD slip dt. 27.05.2004 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 27.05.2004	MEx-175	: Certified Xerox copy of DD slip dt. 23.06.04 for Rs. 2630/- (ii) for Rs. 3674/- and (iii) for Rs. 7072/- respectively favouring the National Federation of the Blind along with DD issue Register extract dt. 23.06.2004
MEx-166	: Certified Xerox copy of DD slip dt. 28.05.2004 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 28.05.2004	MEx-176	: Certified Xerox copy of DD slip dt. 24.06.04 for Rs. 2630/- (ii) for Rs. 3674/- and (iii) for Rs. 7072/- respectively favouring the National Federation of the Blind along with DD issue Register extract dt. 24.06.2004
MEx-167	: Certified Xerox copy of DD slip dt. 03.06.2004 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 03.06.2004 of Arasikere Branch	MEx-177	: Certified Xerox copy of DD slip dt. 25.06.04 for Rs. 5245/-favouring the National Federation of the Blind along with DD issue Register extract dt. 25.06.04
MEx-168	: Certified Xerox copy of DD slip dt. 5.06.2004 for Rs. 14132/- favouring the National Federation of the Blind along with DD issue Register extract dt. 05.06.2004	MEx-178	: Certified Xerox copy of 2 DD slip dt. 26.06.04 for Rs. 7072/-favouring the National Federation of the Blind along with DD issue Register extract dt. 26.06.04
MEx-169	: Certified Xerox copy of DD slip dt. 10.06.2004 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 10.06.2004	MEx-179	: Certified Xerox copy of DD slip dt. 28.06.04 for Rs. 7072/- of SB A/C No. 41436, DD slid td. 28.06.04 for Rs. 7272/- favouring the National Federation of the Blind along with DD issue Register extract dt. 28.06.04
MEx-170	: Certified Xerox copy of DD slip dt. 15.06.2004 for Rs.7855/- (ii) for Rs. 28261/- and Rs. 21185 respectively, favouring		

MEx-180	:	Certified Xerox copy of DD slip dt. 29.06.04 for Rs. 7072/-favouring the National Federation of the Blind along with DD issue Register extract dt. 29-6-04			National Federation of the Blind along with DD issue Register extract dt. 20.07.04
MEx-181	:	Certified Xerox copy of DD slip dt. 02.07.04 for Rs. 7072/-favouring the National Federation of the Blind along with DD issue Register extract dt. 02.07.04	MEx-191	:	Certified Xerox copy of DD slip dt. 21.07.04 for Rs. 11775/- favouring the National Federation of the Blind along with DD issue Register extract dt. 21.07.04
MEx-182	:	Certified Xerox copy of DD slip dt. 06.07.04 for Rs. 7072/-favouring the National Federation of the Blind along with DD issue Register extract dt. 06.07.04	MEx-192	:	Certified Xerox copy of DD slip dt. 24.07.04 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 24.07.04
MEx-183	:	Certified Xerox copy of DD slip dt. 07.07.04 for Rs. 28261/-each (ii) Rs. 21196/- favouring the National Federation of the Blind along with DD issue Register extract dt. 07.07.04	MEx-193	:	Certified Xerox copy of DD slip dt. 26.07.04 for Rs. 2630/- favouring the National Federation of the Blind along with DD issue Register extract dt. 26.07.04
MEx-184	:	Certified Xerox copy of 2 DD slip dt. 08-07-04 for Rs. 7072/-favouring the National Federation of the Blind along with DD issue Register extract dt. 08.07.04	MEx-194	:	Certified Xerox copy of DD slip dt. 29.07.04 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 29.07.04
MEx-185	:	Certified Xerox copy of DD slip dt. 12.07.04 for Rs. 2630/- favouring the National Federation of the Blind along with DD issue Register extract dt. 12.07.04	MEx-195	:	Certified Xerox copy of DD slip dt. 30.07.04 for Rs. 14132/- favouring the National Federation of the Blind along with DD issue Register extract dt. 30.07.04
MEx-186	:	Certified Xerox copy of DD slip dt. 13.07.04 for Rs. 1325/- favouring the National Federation of the Blind along with DD issue Register extract dt. 13.07.04	MEx-196	:	Certified Xerox copy of DD slip dt. 03.08.04 for Rs. 21196/- favouring the National Federation of the Blind along with DD issue Register extract dt. 3.8.04
MEx-187	:	Certified Xerox copy of 3 DD slip dt. 15.07.04 for Rs. 5245/-, Rs. 7072/- and Rs. 13085/- respectively favouring the National Federation of the Blind along with DD issue Register extract dt. 15.07.2003	MEx-197	:	Certified Xerox copy of DD slip dt. 04.08.04 for Rs. 314132/- 1661 favouring the National Federation of the Blind along with DD issue Register extract dt. 04.08.04
MEx-188	:	Certified Xerox copy of DD slip dt. 17.07.04 for Rs. 2108/- favouring the National Federation of the Blind along with DD issue Register extract dt. 17.07.04	MEx-198	:	Certified Xerox copy of DD slip dt. 5.08.04 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 05.08.04 certified Xerox copy of 4 DD slips dt. 09.08.04 for Rs. 21936/-, Rs. 40100/-, Rs. 12233/- and Rs. 2630/- respectively favouring the National Federation of the Blind along with DD issue register extract dt. 9.8.2004
MEx-189	:	Certified Xerox copy of 2 DD slip dt. 19.07.04 for Rs. 2603/- and Rs. 21196/- favouring the National Federation of the Blind along with DD issue Register extract dt. 19.07.04	MEx-199	:	Certified Xerox copy of DD slip dt. 10.08.04 for Rs. 5240/- favouring the National Federation of the Blind along with DD issue Register extract dt. 10.08.04
MEx-190	:	Certified Xerox copy of DD slip dt. 20.07.04 for Rs. 4457/- favouring the			

MEx-200	:	Certified Xerox copy of DD slip dt. 12.08.04 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 12.08.04	MEx-211	:	Certified Xerox copy of 3 DD slip dt. 15.09.04 for Rs. 10468/- (ii) Rs. 200326/- and Rs. 52305/- respectively and withdrawal slips No. 573300 dt. 20.9.04 for Rs. 200326/- and Cheque No. 085487 dt. 20.9.04 for Rs. 52305/- of SB 31105 of Sri Manjunath
MEx-201	:	Certified Xerox copy of DD slip dt. 16.08.04 for Rs. 14132/- favouring the National Federation of the Blind along with DD issue Register extract dt. 16.08.04	MEx-212	:	Certified Xerox copy of DD slip dt. 20.09.04 for Rs. 110417/- fvg. the National Federation of the Blind
MEx-202	:	Certified Xerox copy of DD slip dt. 18.08.04 for Rs. 30873/- favouring the National Federation of the Blind along with DD issue Register extract dt. 18.08.04	MEx-213	:	Certified Xerox copy of DD slip dt. 21.09.04 for Rs. 404316/-, Rs. 580056/-, Rs. 31661/- fvg. the National Federation of the Blind
MEx-203	:	Certified Xerox copy of cheque No. 862654 dtd. 21.08.04 for Rs. 16694/- of Sri Manjunath, DD slip dt. 21.08.04 for Rs. 16694/- favouring the National Federation of the Blind along with DD issue Register extract dt. 21.08.04	MEx-214	:	Certified Xerox copy of cheque No. 092934 dtd. 21.09.04 for Rs. 404316 issued by Smt. Gayathri
MEx-204	:	Certified Xerox copy of DD slip dt. 23.08.04 for Rs. 2630/- favouring the National Federation of the Blind along with DD issue Register extract dt. 23.08.04	MEx-215	:	Certified Xerox copy of 3 DD slip dtd 22.09.04 for Rs. 52305/-, (ii) Rs. 10465/-, (iii) Rs. 28261/- favour the National Federation of the Blind
MEx-205	:	Certified Xerox copy of DD slip dt. 25.08.04 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 25.08.04	MEx-216	:	Certified Xerox copy of Chqueue No. 092104 dt. 22.09.04 for Rs. 52305/- of SB 29548
MEx-206	:	Certified Xerox copy of DD slip dt. 31.08.04 for Rs. 7072/- favouring the National Federation of the Blind along with DD issue Register extract dt. 31.08.04	MEx-217	:	Certified Xerox copy of 2 DD slip dt. 22.09.04 for Rs. 31661/-, Rs. 20850/- favour the National Federation of the Blind
MEx-207	:	Certified Xerox copy of DD slip dt. 2.09.04 for Rs. 16774/- (ii) slip dt. 6.9.04 for Rs. 31621, (iii) withdrawal slip No. 7700641 dt. 6.9.04 for Rs. 31651/- of SB 34750 of Sri H.G. Guruprasad favouring the National Federation of the Blind	MEx-218	:	Certified Xerox copy of 2 DD slip dt. 23.09.04 for Rs. 7078/- and Rs. 31669/- favour the National Federation of the Blind
MEx-208	:	Certified Xerox copy of DD slip dt. 13.09.04 for Rs. 21196/- favouring the National Federation of the Blind	MEx-219	:	Certified Xerox copy of 3DD slip dt. 23.09.04 for Rs. 2632/-, 31669/-, Rs. 33275/- favour the National Federation of the Blind
MEx-209	:	Certified Xerox copy of DD slip dt. 15.09.04 for Rs. 5245/- favouring the National Federation of the Blind	MEx-220	:	Certified Xerox copy of 3DD slips dated Nil for Rs. 52305/- (ii) Rs. 10468/- and slip dated 28.09.2005 Rs. 23033/- favour the National Federation of the Blind.
MEx-210	:	Certified Xerox copy of 3 DD slip dt. 15.09.04 for Rs. 14915/- (ii) 20.09.2004 for Rs. 31661/- and 9943/- respectively favouring the National Federation of the Blind	MEx-221	:	Certified Xerox copy of DD slips dt. Nil for Rs. 10471/- favouring the National Federation of the Blind with extract of DD issue Register dt. 1.10.04
			MEx-222	:	Certified Xerox copy of DD slips dt. 4.10.04 for Rs. 28269/- favouring the National Federation of the Blind with extract of DD issue Register dt. 04.10.04

MEx-223	:	Certified Xerox copy of DD slips dt. 6.10.04 for Rs. 26175/- favouring the National Federation of the Blind with extract of DD issue Register dt. 06.10.04	MEx-234	:	Certified Xerox copy of DD slips dt. 29.11.04 for Rs. 116140/- favouring the National Federation of the Blind and cheque No. 96323 dtd. 29.11.04 for Rs. 116140/- of SB A/c No. 43677 along with extract of DD issue register dt. 27.11.04
MEx-224	:	Certified Xerox copy of DD slips dt. 16.10.04 for Rs. 10471/- favouring the National Federation of the Blind with extract of DD issue Register dt. 16.10.04	MEx-235	:	Certified Xerox copy of extract of DD issue register dt. 18.12.04
MEx-225	:	Certified Xerox copy of DD slips dt. 18.10.04 for Rs. 4710/- favouring the National Federation of the Blind with extract of DD issue Register dt. 18.10.2004	MEx-236	:	Certified Xerox copy of extract of DD issue register dt. 20.12.04
MEx-226	:	Certified Xerox copy of 3 DD slips dt. 2.11.04 for Rs. 15921/-, (ii) Rs. 10179/- and Rs. 52317/- respectively favouring the National Federation of the Blind along with extract of demand draft issue register dt. 2.11.04	MEx-237	:	Certified Xerox copy of DD slips dt. 27.01.04 for Rs. 21202/- favouring the National Federation of the Blind with extract of DD issue Register dt. 27.01.05
MEx-227	:	Certified Xerox copy of 3 DD slips dt. 13.11.04 for Rs. 7075/- and slip dated 28.09.2005 Rs. 23033/- favouring the National Federation of the Blind with extract of DD issue register dt. 13.11.04	MEx-238	:	Certified Xerox copy of DD slips dt. 01.02.05 for Rs. 7075/- favouring the National Federation of the Blind with extract of DD issue Register dt. 01.02.05
MEx-228	:	Certified Xerox copy of DD slips dt. 17.11.04 for Rs. 10471/- favouring the National Federation of the Blind with extract of DD issue Register dt. 17.11.04	MEx-239	:	Certified Xerox copy of DD slips dt. 23.02.04 for Rs. 5248/- favouring the National Federation of the Blind with extract of DD issue Register dt. 23.02.04
MEx-229	:	Certified Xerox copy of DD slips dt. 19.11.04 for Rs. 7075/- favouring the National Federation of the Blind with extract of DD issue Register dt. 19.11.04	MEx-240	:	Certified Xerox copy of 2 DD slips dt. 20.06.05 for Rs. 2633/- favouring the National Federation of the Blind with extract of DD issue Register dt. 20.06.05
MEx-230	:	Certified Xerox copy of DD slip dt. 22.11.04 for Rs. 7858/- favouring the National Federation of the Blind with extract of DD issue Register dt. 22.11.04	MEx-241	:	Certified Xerox copy of DD slips dtd. 14.07.05 for Rs. 2372/- favouring the National Federation of the Blind with extract of DD issue register dt. 14.07.05
MEx-231	:	Certified Xerox copy of DD slips dt. NIL for Rs. 10471/- favouring the National Federation of the Blind with extract of DD issue Register dt. 23.11.04	MEx-242	:	Statement of SB A/c No. 42141 of Sri Shiva Prakash MR
MEx-232	:	Certified Xerox copy of DD slips dt. 26.11.04 for Rs. 9946/- favouring the National Federation of the Blind with extract of DD issue Register dt. 26.11.04	MEx-243	:	Statement of SB A/c No. 42322 of Smt. K S Latha
MEx-233	:	Certified Xerox copy of DD slips dt. 27.11.04 for Rs. 15704/- favouring the National Federation of the Blind with extract of DD issue Register dt. 27.11.04	MEx-244	:	Original deposition dt. 12.11.2005 of Sri C B Byregowda
			MEx-245	:	Xerox copy of letter regarding expenses amount paid to partners for development for the period from 1.9.2004 to 31.10.2004
			MEx-246	:	Xerox copy of details of profits shared between three partners
			MEx-247	:	Xerox of details of profits shared between three partners-Dec. 2004
			MEx-248	:	Copy of statement showing details of incentive for Payout Generated on 15.12.2004 (Page 1 of 4)

MEx-249	:	Copy of statement showing details of incentive for Payout Generated on 15.12.2004 (page 2 of 4)	DEx-9	:	Photocopy of print out of Web site of Syndicate Bank with complaint form
MEx-250	:	Copy of statement showing details of incentive for Payout Generated on 15.12.2004 (Page 3 of 4)	DEx-10	:	Photocopy of particulars of incentive earned in the name of Sri S. Ravish Kumar along with enclosures
MEx-251	:	Copy of statement showing details of incentive for Payout Generated on 15.12.2004 (Page 1 of 1)	DEx-11	:	Photocopy of particulars of incentive earned in the name of Sri Satyanarayana K V Along with enclosures
MEx-252	:	Copy of statement showing details of incentive for Payout Generated on 15.12.2004 (Page 4 of 4)	DEx-12	:	Photocopy of particulars of incentive earned in the name of Smt. Sudha along with enclosures.
MEx-253	:	Xerox copy of address & Contact No. of Smt. Gayathri K S and Sri K Venkat Rao	DEx-13	:	Photocopy of particulars of incentive earned in the name of Sri Ambika Prasad along with enclosures
MEx-254	:	Original deposition 12.11.2005 of Sri Lakshminarayana Rao, Senior Branch Manager, Hassan Branch	DEx-14	:	Photocopy of letter dt 4.12.2003 of Sri S. Ravish Kumar regarding Low Cost Deposit Campaign
MEx-255	:	Original letter No. 018 dated 30-01-06 of Vigilance Unit, Delhi to Shri H.D. Sherigar, Senior Manager (Vig), Bangalore	DEx-15	:	Photocopy of letter dt. 05.12.2003 of Hassan Branch regarding Low Cost Deposit Campaign
MEx-256	:	Original letter No. HFB/SPWB dated 23.01.06 of National Federation of the Blind to Sri Y H R M Prasad, Senior Manager (Vig) Delhi	DEx-16	:	Photocopy of letter dt. 14.05.2003 of RM, RO: Mysore regarding deposit canvassed
MEx-257	:	Copy of the complaint dt. 27.04.2005 of Sri Byare Gowda	DEx-17	:	Photocopy of letter dt. 5.7.2004 of Hassan Branch forwarding the application of Sri S. Ravish Kumar
Documents exhibited on behalf of the CSE in Domestic Enquiry			DEx-18	:	Photocopy of letter dt. 18.07.2002 of Hassan Branch regarding recovery recognition
DEx-1	:	Photostat copy of receipt dt 25.09.2004 issued by National Federation of the Blind	DEx-19	:	Photocopy of letter dt. 10.11.2001 of ZO: Bangalore to Sri Ravish Kumar
DEx-2	:	Photocopy of letter No. NFB/SPWB/2007/B-1264 dt 25.07.2007 of NFB	DEx-20	:	Photocopy of letter dt. 10.5.2004 of Hassan Branch—Performance Report of Sri Ravish Kumar.
DEx-3	:	Photocopy of Statement of Account of SB No. 2888 of Sri Deve Gowda (Old No. 13335).	DEx-21	:	Photocopy of letter dt. 27.12.2005 of Sri S. Ravish Kumar regarding business canvassed
DEx-4	:	Photocopy of Statement of Account of SB No. 13335 of Sri Deve Gowda	DEx-22	:	Photocopy of letter dt. 25.11.2005 of RO: Mysore regarding Deposit Mobilisation
DEx-5	:	Photocopy of letter No. NFB/SPWB/2007/B-3003 dt. 28.10.2006 of NFB	DEx-23	:	Photocopy of letter dt. 24.03.2006 of Hassan Branch regarding business canvassed by Ravish Kumar
DEx-6	:	Photocopy of Ch. No. 256219 dt. 16.11.2005 of UTI Bank	DEx-24	:	Photocopy of letter dt. 6.3.2006 of Sri S. Ravish Kumar regarding Low Cost Deposit Campaign
DEx-7	:	Photocopy of Statement of Account of SB No. 13335 of Sri Deve Gowda	DEx-25	:	Photocopy of letter dt. 15.7.2007 of Sri S. Ravish Kumar regarding canvassing of business as on 31.03.07
DEx-8	:	Photocopy of letter No. NFB/SPWB/2007/202 dt. 6.9.2007 of NFB			

- DEX-26 : Photocopy of letter dt. 25.4.2007 of Br. Manager of Hassan Branch addressed to Sri S. Ravish Kumar
- DEX-27 : Photocopy of letter dt. 1.9.2007 of Sri S. Ravish Kumar regarding special Campaign of Deposit Mobilisation.

नई दिल्ली, 19 मई, 2015

का.आ. 1062.— औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों को बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय बेंगलूर के पंचाट (संदर्भ सं. 147/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 14.05.2015 को प्राप्त हुआ था।

[सं एल-12012/82/2007-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th May, 2015

S.O. 1062.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 147/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court- Bangalore as shown in the Annexure, in the industrial dispute between the management of Syndicate Bank and their workmen, received by the Central Government on 14/05/2015.

[No. L-12012/82/2007-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, YESWANTHPUR, BANGALORE-560022

DATED : 31st MARCH 2015

PRESENT : SHRI S N NAVALGUND,
Presiding Officer

CR No. 147/2007

I Party	II Party
Shri L Shivanna, No. 35, Nagaraholenagar, Mahadeswara Main Road, Sunkadakatte, Viswaneedam Pt. Bengaluru-91	The Dy. General Manager, Syndicate Bank, Regional Office, Nodal Industrial Relations Cell, No.69, 9th Main, 3rd Block, Jayanagar, Bengaluru-11

Appearances :

- I Party : Shri M T Nanaiah,
Advocate
- II Party : Sh. Ramesh Upadhyay,
Advocate

AWARD

1. The Central Government *vide* Order No. L-12012/82/2007-IR(B-II) dated 24.10.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute Act, 1947 has made this reference for adjudication with following Schedule:

SCHEDULE

"Whether the action of the management of Syndicate Bank in dismissing Shri L Shivanna, Ex-Employee (Employment No. 310358) is legal and justified? If not, to what relief the concerned workman is entitled?"

2. On receipt of the reference while registering it in CR 147/2007 when notice were issued to both the sides, I Party entered his appearance through Sh. MT Nanaiah, Advocate and filed his claim statement on 25.01.2008 and II Party entered its appearance through Sh. Ramesh Upadhyaya, advocate and filed its counter statement on 11.10.2010.

3. The brief facts leading to this reference and award may be as under.

4. The I party while working as Attender at the II Party Wilson Garden Branch was issued with Charge Sheet dated 02.05.2000 as under:

"Charge Sheet

You were working as an Attender at our Wilson Garden Branch Bangalore from 25.07.1979 to 29.04.1982 before you were suspended from the services of the Bank *vide* Proceedings No. 630/Da/65 DT 29.04.1982 of the Competent Authority. Thereafter, the suspension was revoked *vide* the Competent Authority's letter No. 272/S/DA/65/82 DT 29.01.1998 informing you that the revocation of suspension is without prejudice to the right of the Bank to proceed against you with disciplinary action.

While functioning in your position as such, during the period between November 1981 and April 1982 with a fraudulent and dishonest intention to cheat the Bank you issued 37 cheques for a total amount of Rs 267500/- in the names of various persons including yourself, even though there was no sufficient funds in your Savings Bank Account to honour the cheques. These persons deposited these cheques in their Savings Banks Accounts in various Banks in Bangalore. These Banks presented these cheques to our Wilson Garden Branch Bangalore through clearing for realization of the amounts. After the clearing operations, the cheques were sent to the clearing section at our Central Accounts Office, Bangalore for sorting out and despatch to our various branches. During the material period, you were representing out Wilson Garden Branch Bangalore at CAD in the clearing work. At CAO, you pilfered these cheques and destroyed the same and thus

prevented out Wilson Garden Branch Bangalore from verifying these cheques.

Since the cheques presented through clearing were not returned, the various presenter banks allowed the withdrawal of the amounts by the depositors. You subsequently received these amounts from these persons, and thus you cheated the Bank to the extent of Rs. 267500/-.

Further, you with a fraudulent and dishonest intention to cheat the Bank, had issued one Ch. No. 427321 dt. 10.04.1982 for Rs. 15000/- in your own name and signed by you under a fictitious name and presented this cheque for collection through your own SB A/c 9001 in Vijaya Bank, Palace Guttahalli Branch Bangalore. You also issued another CH No. 427323 Dt. 13.04.1982 for Rs. 11600/- in the name of one Sri Y R Muniyappa, who presented this cheque through his SB A/c 5633 in the Karnataka Bank Ltd. Rajajinagar, Bangalore. In both the above cases, the cheques were detected and hence, no payment was made. Thus, you have attempted to cheat the Bank to the extent of Rs. 26600/-

Following circumstances appear on record in respect of the above transactions:

I. In the matter of issuing Two cheques amounts aggregating to Rs 26600/- in your name and in the name of Y.R. Muniyappa drawn on Wilson Garden Branch Bangalore.

That you were entrusted with the duties connected to the clearing work at the Wilson Garden Branch Bangalore viz. carrying clearing outward cheques to CAO Bangalore and bringing inward cheques drawn on the said branch. Apart from these duties, you were assisting sorting of cheques branch wise at CAO Bangalore.

While working as such, on 13.04.1992 you collected the inward cheques drawn on our Wilson Garden Branch Bangalore along with the tape prepared by CAO Bangalore. While handing over the said cheques at Wilson Garden Branch Bangalore along with the tape, two cheques, i.e. CH No. 427321 Dt. 10.04.1982 FG yourself for Rs 15000/- and CH No. 427323 Dt. 13.04.1982 FG Y.R.Muniyappa for Rs 11600/- drawn on our Wilson Garden Branch Bangalore were found lying on the floor near the clearing department at the branch. The amount of these two cheques were not included in the tape sent by CAO, in respect of inward clearing cheques brought to the branch by you.

Both the above referred cheques were drawn on your SB A/c 15533 at our Wilson Garden Branch Bangalore and there was no sufficient balance in your SB A/c on that date, i.e. Balance of Rs. 27.66 only was available. The CH No. 427321 dt. 10.04.1982 for Rs. 15000/- signed by you under a fictitious name was sent for collection through your own SB A/c 9001 at the Vijaya Bank Palace Guttahalli Branch Bangalore 560 003. The other CH 427323 dt. 13.04.1982 for Rs. 11600/- was issued by you in favour of

Y.R. Muniyappa, who presented this cheque through his SB A/c 5635 at the Karnataka Bank Ltd., Rajajinagar Branch, Bangalore.

The above circumstances go to indicate that you with a fraudulent and dishonest intention of deriving undue pecuniary benefit at the cost of the Bank pilfered these two cheques while sorting the cheques at CAD Bangalore. thereby the above two cheques were not included in the tape and thus, the total amount of presentation of cheques on Wilson Garden Branch Bangalore was reduced by Rs. 26600/- on 13.04.1982.

II. In the matter of issuing Cheques amounts aggregating to Rs. 267500/- in the names of various persons including yourself, even though there was no sufficient funds in your SB A/c in other's SB A/c to honour these Cheques:

That you were entrusted with the duties of carrying outward and inward clearing cheques of the branch to CAO and vice versa during the period between November 1981 and April 1982. You were also assisting sorting of Cheques Branch-wise at CAO Bangalore during the said period.

While working in your position as such, you with a fraudulent and dishonest intention to cheat the Bank issued 37 cheques amounts aggregating to Rs. 267500/- in the names of various persons including yourself even though there was no sufficient funds in your SB A/c 15533, in SB 16765 of Shri L Ravindra, Attender of Wilson Garden Branch Bangalore, in SB A/c 17185 of Chikasiddiah, Attender of Wilson Garden Branch Bangalore, SB A/c 13963 of Mrs. Ashwathamma which was closed on 21.06.1980, 16230 of Sri Srikantegowda and SB 15754 of R Narasinga Rao, as some of the cheques were pilfered by you from the cheques books issued to the above-said account holders of Wilson Garden Branch Bangalore. The persons to whom the Cheques were issued including yourself, deposited these cheques in their SS accounts in various Banks/Branches in Bangalore and the same were presented in clearing by the respective Banks/Branches through CAO Bangalore.

As you were sorting the cheques received in clearing at CAO Bangalore, you with a dishonest intention of cheating the Bank and to have wrongful gain at the cost of the Bank surreptitiously removed these cheques and destroyed the same. With the result, the said cheques were not included in the inward clearing schedule (amount of cheques taped at CAD) pertaining to Wilson Garden Branch Bangalore. As such, the said branch was prevented by you from verifying these cheques. Since the said cheques presented through clearing could not be returned to the respective presenting branches/banks, because you pilfered the same, the concerned presenting banks allowed withdrawal against the credit of these cheques. You received the amounts of such cheques subsequently from the persons to whom you fraudulently issued the cheques and thus cheated the Bank to the extent of Rs 267500/- and derived pecuniary gain at the cost of the Bank.

The details of the Cheques fraudulently issued by you in favour of various persons known to you including yourself are as under:

Sl. No.	Name of the Payee	SB A/c of the payee	Amounts of Cheque	Name of the Bank/Branch
1.	L Shivanna (Yourself)	9001	15000.00	Vijaya Bank, P G Halli Bangalore
2.	B K Shivanna	18420	37000.00	Canara Bank Vyalikaval Branch Bangalore
3.	Srikantegowda	18495	11000.00	Canara Bank Vyalikaval Branch Bangalore
4.	-do-	6058	31000.00	SBM Vyalikaval Branch Bangalore
5.	H K Bettaiah	13942	13000.00	Canara Bank Vyalikaval Branch Bangalore
6.	H K Puttamadaiah	3338	20000.00	SBM Madhav Nagar Branch Bangalore
7.	B K Mangalamma	4621	25000.00	Indian Bank, Chamrajpet Bangalore
8.	Y R Muniyappa	5635	20000.00	Karnataka Bank Rajajinagar Bangalore
9.	T Devendra Reddy	8942	51500.00	Canara Bank, Byatarayanapura Bangalore
10.	N Thas	551	39000.00	Bank of Baroda Sadashivnagar Bangalore
11.	C K Channaiah and Smt. Narasamma	842	5000.00	New Bank of India Malleswaram Bangalore
Total			267500.00	

Following circumstances appear on record in respect of the above transactions:

1. In the matter of issuing a Cheque for Rs. 15000/- in your favour and lodging the same for collection at Vijaya Bank P G Halli Branch Bangalore for the credit of SB A/c 9001 opened with them:

You pilfered a Cheque leaf bearing No. 438607 from the Cheque Book 438601 to 610 issued to SB 16765 of Sri L Ravindra on 28.12.1981, Attender working at Wilson Garden Branch Bangalore and fraudulently issued the same in your favour and lodged the same for collection at Vijaya Bank Palace Guttahalli Branch Bangalore for the credit of your

SB A/c 9001. The said Cheque was presented through clearing on 08.04.1982 by the said Bank, crediting Rs. 15000 to your said SB A/c. Since you were assisting sorting the cheques at CAO Bangalore, you surreptitiously removed the cheque and destroyed the same before the same was listed at CAO Bangalore for presenting the same to Wilson Garden Branch Bangalore. In the normal course, the said Cheque would have been returned for want of sufficient funds by Wilson Garden Branch Bangalore on presentation, and Vijaya Bank would not have given credit to your A/c. But since you pilfered the cheque, the same could not be returned to Vijaya Bank.

Thereafter, on 10.04.1982 you withdrew Rs. 1000/- from Vijaya Bank P G Halli Branch through cheque No. 796451. Again on 11.04.1982, you withdrew Rs. 5000/- through CH No. 796452. Thus, you fraudulently gained pecuniary benefit of Rs. 15000/- at the cost of the Bank.

2. In the matter of issuing 4 Cheques aggregating to Rs. 37000/- in favour of Sri B K Shivanna, SB 18420 opened with Canara Bank Vyalikaval Branch Bangalore.

That Sri B K Shivanna working at Tata Institute, No. 2, Bungalow, Bangalore 3 opened SB 18420 with Canara Bank Branch Bangalore on 02.01.1982.

a. That on 04.02.1982, a CH No. 433400 pilfered by you from the Cheque Book bearing No. 433391 to 433400 issued to Sri S Chikkasiddaiah to his SB 17185, Attender of Wilson Garden Branch Bangalore on 07.11.1981 fraudulently issued by you in favour of Sri B K Shivanna for Rs. 10000/- was lodged for collection by him through his a/c at Canara Bank. When the cheque was presented to CAO Bangalore on 04.02.1982 through clearing you pilfered the same. Thus the amount was credited to SB A/c of Sri B K Shivanna.

b. That on 09.02.1982 a CH No. 253207 issued by you fvg. Sri B.K. Shivanna for Rs. 10000/- drawn on SB 15533 maintained at Wilson Garden Branch Bangalore was lodged for collection at Canara Bank and the same was presented to CAO Bangalore in clearing. By your resorting to the malpractice as explained above, the amount of the cheque was credited to SB a/c of Sri B.K. Shivanna on the same day.

c. That on 23.02.1982 a CH No. 253209 for Rs. 10000/- issued by you drawn on your SB A/c maintained at Wilson Garden Branch Bangalore was lodged for collection at Canara Bank and the same was presented to CAO Bangalore in clearing. By your resorting to the malpractice as explained above the amount was credited to the account of Sri B.K. Shivanna on the same day.

d. That on 16.03.1982, a Ch No. 438499 issued by you favouring Sri B.K. Shivanna for Rs. 7000/- pertaining to your SB. A/c 15533 maintained at Wilson Garden Branch Bangalore was lodged for collection at Canara Bank and the same was presented in clearing. By your resorting to

the malpractice as explained supra, the amount was credited to the SB A/c of Sri B.K. Shivanna.

The amounts in respect of cheques mentioned above were withdrawn by Sri B.K. Shivanna on various dates and handed over the same to you.

3. In the matter of issuing 2 Cheques amounting to Rs. 11000/- in favour of Sri Srikantegowda, your brother-SB A/c 18495 with Canara Bank Vyalikaval Branch Bangalore.

That Sri Srikantegowda, your brother residing at 209/59, 12th B Cross, Vyalikaval Bangalore opened SB A/c 18495 on 05.03.1982 with the introduction of Sri B. K. Shivanna (Ref. S. No. 2) at Canara Bank Vyalikaval Branch Bangalore.

(a) That on 11.03.1982, a Ch No. 438498 issued by you for Rs. 10000/- favouring Shri Srikantegowda drawn on your SB A/c 15533 maintained at Wilson Garden Branch Bangalore was lodged for collection at Canara Bank for credit of the said SB A/c. The same was presented to CAO Bangalore on 11.03.1982. By your resorting to the malpractice as explained above the amount of this cheque was credited to his SB A/c on the same day.

(b) That on 12.04.1982 a Ch No. 154446 pilfered by you from the Cheque book bearing No. 154441 to 450 issued to Sri L. Ravindra on his SB A/c 16765, and fraudulently issued by you for Rs. 1000/- in favour of Sri Srikantegowda your brother, was lodged for collection by him at the said Bank. The same was presented on CAO Bangalore on 12.04.1982 through clearing. By your resorting to the malpractice as explained supra, the amount was credited to the account of the payee.

The amounts so credited were withdrawn on different dates and were handed over to you.

4. In the matter of issuing 5 Cheques aggregating to Rs. 31000/- to Shri Srikantegowda, SB A/c 6058 with State Bank of Mysore, Vyalikaval branch, Bangalore.

That Sri Srikantegowda, your brother residing at D 209, 12th B Cross, Vyalikaval Bangalore (as mentioned in Sl. No. 3) opened SB A/c 6058 on 30.12.1981 at the above said branch/Bank.

(a) That on 05.01.1982 a Ch No. 145007, pilfered by you from the Cheque book bearing Nos. 145001 to 145010 issued to SB A/c 16230 of Sri Srikantegowda fraudulently issued by you for Rs. 6000/- was lodged for collection and the same was lodged for collection at State Bank of Mysore and the same was presented by the said Bank in clearing to CAO Bangalore on 05.01.1982. By your resorting to the malpractice as explained above, the amount in respect of this cheque was credited to the SB A/c of Sri Srikantegowda.

(b) That on 12.01.1982, Ch No. 145908, pilfered by you from the Cheque book containing Nos. 145001 to 145010

issued to SB A/c 16230 of Shri Srikantegowda fraudulently issued by you for Rs. 5000/- which was lodged for collection at State Bank of Mysore and the same was presented by the said Bank in clearing to CAO Bangalore on 12.01.82. By your resorting to the malpractice as explained above the amount was credited to the SB A/c of Sri Srikantegowda.

(c) That on 24.01.1982 a Ch No. 145009 pilfered by you from the Cheque book containing Nos. 145001 to 145010 issued to SB A/c 16230 of Sri Srikantegowda fraudulently issued by you for Rs. 6000/- lodged for collection at State Bank of Mysore and the same was presented by the said Bank in clearing to CAO Bangalore on 24.01.82. By your resorting to the malpractice as explained above, the amount in respect of the cheque was credited to the SB A/c of Sri Srikantegowda.

(d) That on 27.01.1982 Ch. No. 435069 pertaining to your SB A/c 15533 issued by you favouring Sri Srikantegowda for Rs. 7000/- was presented by State Bank of Mysore in clearing to CAO Bangalore. By your resorting to the malpractice as explained above the amount in respect of the same was credited to the SB Account of Sri Srikantegowda.

(e) That on 01.04.1982 a Ch. No. 798692. Which was pilfered by you from the Cheque Book 798691 to 798700 issued to Smt. Ashwathamma on 28.05.1980 pertaining to her SB A/c 13963 closed on 21.06.1980 fraudulently issued by you favouring Sri Srikantegowda for Rs. 7000/- was presented in clearing to CAO: Bangalore. By your resorting to the malpractice as explained above the amount in respect of the same was credited to the SB A/c of Sri Srikantegowda.

The Cheques issued in Sl. No. a to c are from the Cheque book containing leaves from 145001 to 145010 obtained by you, issued to Sri Srikantegowda on 12.03.1981.

The amounts in respect of the aforesaid Cheques lodged for collection at the above said bank were withdrawn by Sri Srikantegowda on various dates and the same were handed over to you.

5. In the matter of issuing 3 Cheques amounting to Rs. 11000/- to Sri H.K. Bettaiah SB A/c 13942 with Vijaya Bank, K.G. Road Bangalore.

That Sri H. K. Bettaiah working as an Attender at Inspection Department Vijaya Bank K.G. Road Bangalore opened SB A/c 13942 on 29.03.1977 with that branch.

(a) That on 26.11.1981 a Ch. No. 145004 pilfered by you out of the Cheque book containing cheque leaves from 145001 to 145010 issued to Sri Srikantegowda, fraudulently issued by you for Rs. 5000/- favouring Sri H.K. Bettaiah was lodged for collection at Vijaya Bank. The said cheque was presented to CAO: Bangalore, in clearing, on 27.11.1981. By your resorting to the malpractice as explained above the amount was credited to the SB account of Sri H.K. Bettaiah on the same day.

b. That on 02.12.1981 a Ch.No. 145005 pilfered by you out of the Cheque Book containing cheque leaves from 145001 to 145010 to issued to Sri Srikantegowda, for his SB 16230 fraudulently issued for Rs. 4000/- by you favouring Sri H.K. Bettaiah was lodged for collection at Vijaya Bank, and the same was presented to CAD Bangalore in clearing on 3.12.81. By your resorting to the malpractice as explained above and the amount was credited to the SB A/c of Sri Bettaiah on the same day.

c. That on 05.12.1981 a Ch. No. 145006 pilfered by you out of the Cheque book containing cheque leaves from 145001 to 145010 issued to Sri Srikantegowda, fraudulently issued for Rs. 4000/- by, you favouring Sri H.K. Bettaiah was lodged for collection at the Vijaya Bank by the payee and was presented to CAD in clearing on 07-12-1991. By your resorting to the malpractice as explained above the amount of the Cheque was credited to the Payee's SB A/c the same day.

The aforesaid Cheques are out of the Cheque Book containing leaves from 145001 to 145010 issued to Sri Srikantegowda, your Brother on 12.03.1981 to his SB A/c 16230 at Wilson Garden Branch Bangalore and the said Cheque book was taken delivery by you.

The amounts of the said Cheques credited to the SB A/c were withdrawn by the account holder on various dates and were handed over to you.

6. In the matter of issuing 3 Cheques amounting to Rs. 20009/- in favour of Sri H. K. Puttamadiah SB A/c 3338 with State Bank of Mysore Madhav Nagar Branch Bangalore.

That Sri H.K. Puttamadiah employed in KEB ITC Sri R.C. Road Bangalore opened SB A/c 3338 on 13.02.1981 at State Bank of Mysore Madhav Nagar Bangalore.

a. That on 16.12.1981 a CH No. 372909 for Rs. 4000/- issued by you pertaining to your SB A/c 15533 at Wilson Garden Branch Bangalore was lodged for collection by the payee at State Bank of Mysore and same was presented in clearing to CAD Bangalore on 17.12.1981. By your resorting to the malpractice as explained above the amount was credited to the said SB A/c on the same day.

b. That on 28.12.1981 a CH No. 435064 for Rs. 6000/- issued by you pertaining to your SB A/c 15533 at Wilson Garden Branch Bangalore was lodged for collection by the payee at State Bank of Mysore and the same was presented in clearing to CAD Bangalore on 29.12.1981 by the said Bank. By your resorting to the malpractice as explained above the amount was credited to the SB A/c of the payee on the same day.

c. That on 18.03.1982 a CH No. 438500 for Rs. 10000/- issued by you pertaining to your SB A/c 15533 at Wilson Garden Branch Bangalore was lodged for collection by the payee at State Bank of Mysore and was presented in

clearing to CAD Bangalore on same day. By your resorting to the malpractice as explained above the amount was credited to the SB A/c of the payee on the same day.

All the amounts so credited were withdrawn by Sri H K Puttamadiah on different dates and were handed over to you.

7. In the matter of issuing 3 Cheques amounting to Rs 25000/- to Smt. B K Mangalamma SB 4621 with Indian Bank, Chamarajpet Branch Bangalore:

That Smt. B K Hangalamma residing at No. 19, Gavipuram Guttanalli Bangalore opened SB A/c 4621 on 06.01.1981 with Indian Bank Chamarajpet Branch Bangalore.

a. That on 04.03.1982 CH No. 438494 issued by you for Rs. 10000/- pertaining to your SB A/c 15533 at Wilson Garden Branch Bangalore was lodged for collection at Indian Bank and the same was sent for collection through clearing to CAO Bangalore 05.03.1982 by Indian Bank. By your resorting to the malpractice as explained above the amount was credited to the SB A/c of the payee on the same day.

b. That on 10.03.1982 CH No. 438496 issued by you for Rs. 5000/- pertaining to your SB A/c 15533 at Wilson Garden Branch Bangalore was lodged for collection at Indian Bank and the same was sent for collection through clearing to CAO Bangalore on 11.03.1982. By your resorting to the malpractice as explained above the amount was credited to the SB A/c of the payee on the same day.

c. That on 02.04.1982 CH No. 798693, pilfered by you out of the Cheque book No. 798691 to 798700 issued to Smt. Ashwathamma pertaining to her SB A/c 13963 issued on 28.05.1980 fraudulently issued by you for Rs. 10000/- favouring Smt. B.K. Mangalamma was lodged for collection at Indian Bank for credit of SB 4621 with them. The said Bank presented the said cheque in clearing to CAO Bangalore on 05.04.1982. By your resorting to the malpractice as explained above the amount was credited to the SB A/c of the payee on the same day. The SB A/c 13963 of Smt. Aswathamma was closed on 21.6.1980 at our Wilson Garden Branch, Bangalore.

That the amounts in respect of above mentioned Cheques credited to SB A/c 4621 were withdrawn by Smt. Mangalamma on different dates and she handed over the amount to you.

8. In the matter of issuing Cheques amounting to Rs. 20000/- in favour of Sri Y R Muniyappa SB 5635 with Karnataka Bank Ltd 6th Block Rajajinagar Bangalore:

That Sri Y.R. Muniyappa residing at No. 26, I Main Road Cholorapalya, Magadi Road, Bangalore opened SB A/c 5635 on 25.04.1980 at the above Bank.

That on 03.03.1982 CH No. 438493 issued by you for Rs. 10000/- another CH No. 438495 for Rs. 10000/- issued

by you on 10.03.1982, both pertaining to your SB A/c 15533 at Wilson Garden Branch Bangalore were lodged for collection at Karnataka Bank for the credit of SB A/c 5635 of Sri V.R. Huniyappa at that Bank and the same were presented in clearing to CAO Bangalore on 03.03.1982 and 10.03.1982 respectively. By your resorting to the malpractice as explained above the amounts were credited to the SB A/c of the payee on the respective days.

The said amounts have been withdrawn by the party and handed over to you.

9. In the matter of issuing Cheques amounting to Rs. 51500/- in favour of Sri T. Devendra Reddy SB 8942 with Canara Bank, Bytarayanapura, Bangalore:

That Sri T Devendra Reddy an employee of Jayaramdas Udyog Limited Mysore Road Bangalore has opened SB 8942 on 15.03.1979 in the above Bank.

a. That on 10.12.1981, 16.12.1981 and 22.12.1981 Cheques bearing Nos. 372908 for Rs 2500/- 372910 for Rs 6000/- and 435063 for Rs 3000/- all issued by you in favour of Sri T Devendra Reddy drawn on Wilson Garden Branch Bangalore pertaining to your SB 15533 were lodged for collection at Canara Bank. The said Bank presented these cheques in clearing to CAO Bangalore on the dates mentioned above. By your resorting to the malpractice as explained above the amount was credited to the SB A/c of the payee on the respective days.

b. That on 06.01.1982, a CH No. 433398 pilfered by you from the Cheque book 433391 to 433400 issued on 7.11.1981 to SB A/c No. 17185 of Sri Chikkasiddiah, Attender of Wilson Garden Branch Bangalore, issued by you for Rs. 6,000/- in favour of Sri T Devendra Reddy and the same was lodged for collection at Canara Bank on 06.01.1982. The said Bank presented the cheque to CAO Bangalore on 6.1.82. By your resorting to the malpractice as explained above the amount was credited to the SB A/c of the payee on the same day.

c. That on 13.1.1982, 20.01.1982 and 02.02.1982, you issued Cheques bearing Nos. 435067, 435068, 435070 for Rs. 10000/-, Rs. 10000/- and for Rs. 7,000 respectively in the name of Sri T Devendra Reddy drawn on our Wilson Garden Branch Bangalore pertaining to your S/B A/c 15533. These cheques were lodged for collection at Canara Bank Byatarayanapura on the afore said dates and the said Bank presented the same in clearing to CAO Bangalore on the said dates. By your resorting to the malpractice as explained above the amounts were credited to the SB A/c of the payee on the respective days.

d. That on 02.03.1982 CH No. 253210 issued by you for Rs. 7000/- favouring Sri T. Devendra Reddy, drawn on our Wilson Garden Branch Bangalore pertaining to your SB A/c 15533 was lodged for collection by the Payee at Canara Bank and the said Bank sent the same for collection to

CAO Bangalore on 03.03.1982 in clearing. By your resorting to the malpractice as explained above the amount was credited to the SB A/c of the payee on the same day.

All the amounts in respect of Cheques issued by you as mentioned above were credited to SB A/c 8942 and were withdrawn by Sri T Devendra Reddy and handed over to you.

10. In the matter of issuing Cheques amounting to Rs. 39000/- in favour of Sri N Thas SB 551 with Bank of Baroda, Palace Orchards, Sadashivanagar Bangalore:

That Sri N. Thas, residing at No. 215, Bellary Road, Bangalore has SB 551 with the said Bank since 09.01.1979.

a. That on 01.01.1982, 02.03.1982 and on 11.03.1982 Cheque Nos. 435066, 438492 and 438497 issued by you for Rs. 2000/- Rs. 10000/- and Rs. 7000/- respectively in favour of Sri N Thas drawn on Wilson Garden Branch Bangalore pertaining to your SB 15533 were lodged for collection by him at Bank of Baroda. The said Bank presented these Cheques on the dates mentioned above to CAO Bangalore in clearing. By your resorting to the malpractice as explained above the amounts were credited to the SB A/c of the payee on the respective dates.

b. That on 29.03.1982, CH. No. 438608 pilfered by you from the Cheque book 438601 to 438610 issued to SB A/c 16765 of Sri L Ravindra, Attender, Wilson Garden Branch Bangalore fraudulently issued by you for Rs. 10000/- favouring Sri N. Thas was lodged for collection by the Payee on 29.3.1982. The said Bank presented the cheque in clearing to CAD Bangalore on 29.3.1982. By your resorting to the malpractice as explained above the amount was credited to the SB A/c of the payee on the same day.

c. That on 07.04.1982, CH. No. 788352 issued by you for Rs. 10000/- favouring Sri N. Thas drawn on Wilson Garden Branch Bangalore pertaining to your SB 15533 was lodged for collection by the Payee at Bank of Baroda and the same was presented in clearing to CAO Bangalore on 7.4.1982. By your resorting to the malpractice as explained above the amount was credited to the SB A/c of the payee on the same day.

All the amounts mentioned above in respect of various Cheques issued by you credited to SB 551 were withdrawn by Sri N Thas on various dates and the said amounts were handed over to you subsequently.

11. In the matter of issuing a Cheque for Rs. 5000/- Joint SB 842 of Sri C K Channiah and Smt. Narsamma with New Bank of India, Sampige Road Malleswaram, Bangalore:

That Sri C K Channiah and Smt. Narasamma W/o C K Channiah part time sweeper New Bank of India Sampige Road Malleswaram Bangalore opened SB 842 with the above Bank on 12.01.1981.

That on 12.04.1982, a CH. No. 427322 pilfered by you out of the Cheque book bearing Nos. 427321 to 427330 issued on 31.8.1981 to Sri R P Narasinga Rao to his SB A/c 15754 favouring Sri C. K. Channaiah and Smt. Narasamma for Rs. 5000/- was lodged for collection at New Bank of India and the said Bank presented the cheque through clearing to CAO Bangalore on 12.04.1982. By your resorting to the malpractice and explained above the amount was credited to the Jt. SB A/c of the payees on the same day. The amount so credited was withdrawn by the said parties and handed over to you.

The persons named is S. No. 2 and 5 to 11 are well known to you and the person named under S. No. 3 & 4 is your own Brother. Wilson Garden Branch Bangalore received none of the Cheques mentioned above through clearing. If these cheques were received in the inward clearing at the branch, they ought to have been returned to the presenting Banks, as on all the said dates, there was no sufficient funds in your a/c or in the SB A/c of the persons referred therein, to pass these cheques, which you are aware. During the relevant period, you were carrying clearing cheques, both inward and outward, to CAO Bangalore and was also assisting to sort the Cheques at CAO Bangalore. While sorting the cheques, you stealthily removed the Cheques under reference and destroyed the same, before they were listed at CAO Bangalore on respective dates mentioned as above.

The above circumstances go to indicate that with a dishonest intention of deriving undue pecuniary benefit at the cost of the Bank, you fraudulently issued the Cheques mentioned as above on various dates in favour of yourself and also in favour of persons mentioned therein and destroyed the same at CAO Bangalore when they were presented in clearing to them. you thereby resorted to fraudulent acts and acted in a manner detrimental to the interest of the Bank. Your above fraudulent acts constitute Gross-Misconduct as per Clause 19.5 (j) of Bipartite Settlement.

You are therefore charged with Gross Misconduct of "doing acts prejudicial to the interest of the Bank" under Clause 19.5 (j) of the Bipartite Settlement.

You are advised to submit your written statement of Defence, if any, within 15 days from the date of receipt of this Charge Sheet.

Your faithfully,

SD/-

[V. Ganeshan],
Asst. General Manager."

since the I Party failed to avail the opportunities given to him for giving reply/explanation to the charge sheet the Disciplinary Authority by his order dated 14.06.2000

appointing Sh. M.S. Dwarakanath as Enquiry Officer and Sh. M. Uampathy as Presenting Officer ordered for holding Domestic Enquiry. The Enquiry Officer while causing notice to the CSE/I Party to appear for enquiry on his appearance along with Sh. K. Srinivas Babu, State Secretary, SBSU, as his Defence Representative after observing the formalities of the preliminary hearing recording the evidence of Sh. M. S. Bhat, Retired Manager, Wilson Garden Branch, Bangalore; Sh. Jayaram Shenoy, Manager, Kumta Branch; Sh. S S Navada, Retired Assistant Manager, Wilson Garden Branch; Sh. Stanley Maben, Clerk, Russel Market Branch, Bangalore; Sh. T.K. Ramakrishnan, Vigilance Officer, Kochi Port Trust, Kochi as MW 1 to MW 5 and exhibiting 313 documents the detailed description of which are narrated in the annexure as the CSE/I Party and the Defence Representative failed to attend the enquiry from 10.07.2000 onwards while discharging the management witnesses from cross-examination and taking that CSE/I Party has no evidence to adduce submitted his report dated 30.12.2000 all charges being proved. Then the Disciplinary Authority while forwarding the copy of the enquiry finding to CSE/I Party and giving an opportunity of hearing imposed the punishment of dismissal from Service by his order dated 07.02.2001. The said order of the Disciplinary Authority was when challenged by the CSE/I Party before General Manager (P)/Appellate Authority he too after affording opportunity of hearing confirmed the order of the Disciplinary Authority and Dismissed his appeal by order dated 03.07.2001. Then the I Party when approached the ALC(C), Bellary and he submitted FOC dated 16.07.2007 it resulted in this reference.

5. The I party in his claim statement asserting that he who was appointed as Attender in the year 1979 having worked honestly for more than 22 years and on the same set of charges he was being prosecuted in CC No. 1782/1985 on the file of V. Additional Chief Metropolitan Magistrate wherein he came to be acquitted through Judgement dated 16.05.1998 and though his Defence Representative gave representation to the effect that as per Para V of the Shastri Award the Award of acquittal passed by the competent court of law should not be lightly thrown aside, by holding an eye wash Domestic Enquiry he being imposed with punishment of Dismissal the same is liable to be set aside with direction to the II Party to reinstate him with full backwages and other consequential benefits. INTERALIA, the II Party in its counter statement contended the I Party who was placed under suspension by order dated 29.04.1982 while revoking the same *vide* order dated 29.01.1998 without prejudice to the rights of the bank to proceed against him with Disciplinary Action depending on the outcome of the criminal case and that after the outcome of the order of the criminal court he was issued with charge sheet and as he failed to give any reply/explanation a Domestic Enquiry was held by appointing Sh. M.S. Dwarakanath as Enquiry Officer and Sh. M.

Umapathy as Presenting Officer and in the said Domestic Enquiry the Enquiry Officer affording all fair and proper opportunities to the CSE/I Party through his enquiry finding dated 30.12.2000 held the charges as proved after affording him an opportunity of hearing having regard to the grave misconduct proved against him the Disciplinary Authority by his detailed order dated 07.02.2001 imposed the punishment of dismissal and when same was challenged by CSE/I Party before the Appellate Authority he too after affording opportunity of hearing by his detailed order dated 03.07.2001 having Dismissed the Appeal confirming the punishment imposed by the Disciplinary Authority there being no reasons to hold the finding of the Enquiry Officer being perverse or the punishment imposed being disproportionate the reference by rejected.

6. Since after completion of the pleading by raising a Preliminary Issue as to.

"Whether the Domestic Enquiry held against the I party by the II party is Fair and Proper?"

and receiving the evidence of both sides by order dated 10.08.2012 the said issue has been answered in the Affirmative *i.e.*, the Domestic Enquiry conducted against the I Party by the II party is Fair and Proper, after receiving the evidence of I party on the Points of Victimization and not being gainfully employed the arguments on merits being heard the Points that arises for my consideration are:

Point No. I : Whether the I Party able to demonstrate the finding of the Enquiry Officer the charges are proved being perverse necessitating the interference of this tribunal?

Point No. II: If not, whether the punishment of Dismissal imposed by the Disciplinary Authority and affirmed by the Appellate Authority is disproportionate to the misconduct alleged and proved against the I Party?

Point No. III: What Order/Award?

7. On appreciation of the pleadings, Oral and Documentary Evidence brought on record in the Domestic Enquiry and also in this proceedings by the I Party on the Point of Victimization and also not being gainfully employed in the light of the arguments put forward by their learned advocates my finding on Point No. I and II are in the Negative and Point No. III is as per the final order for the following

REASONS

8. **Point No. I:** The only trump card of the I Party through his claim statement and the evidence lead on the Points of Victimization and not being gainfully employed and through written arguments of his counsel is that in respect of these very charges he being acquitted in the criminal case before the V Additional CMM Bangalore in C C No. 1782/1995 through judgement dated 16.05.1998 he ought to have been

exonerated from the charges. But with due respect to the I Party and his learned advocate as held by the Hon'ble Supreme Court in the case of Divisional Controller, KSRTC vs. M G Vittal Rao reported in (2012) I SCC 442 question of considering reinstatement after decision of acquittal or discharge by a competent criminal court arises only if dismissal from service is based on conviction by criminal court in view of provisions of Article 311(2) second provision(a) of Constitution or analogues provisions in statutory rules and where inspite of acquittal by a criminal court Domestic Enquiry is held it has to be seen whether finding of the Enquiry Officer charges are proved is perverse and punishment imposed is disproportionate his only contention that because he was acquitted in the criminal case the management/II Party ought not to have proceeded with the Domestic Enquiry and punished him is unacceptable. Since it is borne out from the proceedings of the enquiry the CSE/I Party by remaining absent failed to challenge the evidence of MW 1 to MW 5 by their cross-examination whose evidence corroborated by the documentary evidence substantiate the charges levelled against him there was no other go for the Enquiry Officer except to say that the charges are proved. Here also in view of the said fact the learned advocate appearing for the I Party simply in his written arguments reiterated the averments made in the claim statement without making any effort to demonstrate or satisfy me how the finding of the Enquiry Officer charges being proved is either baseless or perverse. Therefore, I have no reasons to say the finding of the Enquiry Officer charges are proved being baseless or perverse necessitating my interference. In the result, I arrive at conclusion of answering this Point in the Negative.

9. **Point No. II:** The grave allegations proved against I Party of 37 Cheques for total amount of Rs. 267500.00 without balance in his account and further making attempts to see that they are however passed for payment taking disadvantage of being an employee in the Bank do not deserve any sympathy as such I have no reason to say the punishment of dismissal imposed being disproportionate. In other words having regared to the grave misconduct committed by the I Party the punishment of dismissal cannot be termed as disproportionate. In the result while arriving at conclusion of answering this Point as well in the Negative, I pass the following.

ORDER

The action of the management of Syndicate Bank in dismissing Shri L Shivanna, Ex-Employee (Employment No. 310358) is held legal and justified and that he is not entitle for any relief.

(Dictated to UDC, transcribed by him, corrected and signed by me on 31st March 2015)

S.N. NAVALGUND, Presiding Officer

Annexure-I			
Documents exhibited on behalf of the Management in Domestic Enquiry		MEx-20	: SB withdrawal slip dt. 15.04.1982 for Rs. 300/-
MEx-1	: Letter No. Gen. 7/350 dt. 10.09.1982 from Manger, BOB, Bangalore to Inspector of Police, CBI, Bangalore	MEx-21	: Certified extract of ledger in respect of SB A/c No. 551 of Sri N Thas from 01.01.1982 to 16.6.1982
MEx-2	: Account opening form with specimen signature card in respect of SB account No. 551 in the name of Sri N Thas	MEx-22	: Letter No. Court Cases/2402/BRKB/82 dt. 10.9.1982 from the Manager, Canara Bank, Vyalikaval Branch, Bangalore addressed to Sri T K Ramakrishnan
MEx-3	: SB Pay in slip No. 313938 dt. 01.01.1982 for Rs. 2000/-	MEx-23	: SB Account opening form dt. 02.01.1982 in respect of SB Account No. 18420 of Sri B K Shivanna
MEx-4	: SB Pay in slip No. 64394 dt. 02.03.1982 for Rs. 10000/-	MEx-24	: Specimen signature card dt. 02.01.1982 in respect of the above
MEx-5	: SB Pay in slip No. 643096 dt. 11.03.1982 for Rs. 7000/-	MEx-25	: SB Pay in slip dt. 04.02.1982 for Rs. 10000/-
MEx-6	: SB Pay in slip No. 643097 dt. 29.03.1982 for Rs. 10000/-	MEx-26	: SB Pay in slip dt. 09.02.1982 for Rs. 10000/-
MEx-7	: SB Pay in slip No. 643098 dt. 07.04.1982 for Rs. 10000/-	MEx-27	: SB Pay in slip dt. 23.02.1982 for Rs. 10000/-
MEx-8	: SB withdrawal slip dt. 04.01.1982 for Rs. 2000/-	MEx-28	: SB Pay in slip dt. 16.03.1982 for Rs. 7000/-
MEx-9	: SB withdrawal slip dt. 04.03.1982 for Rs. 5000/-	MEx-29	: Ch. No. 926121 dt. 08.02.1982 for Rs. 10000/-
MEx-10	: SB withdrawal slip dt. 06.03.1982 for Rs. 200/-	MEx-30	: Ch. No. 926122 dt. 11.02.1982 for Rs. 10000/-
MEx-11	: SB withdrawal slip dt. 11.03.1982 for Rs. 1500/-	MEx-31	: Ch. No. 926123 dt. 25.02.1982 for Rs. 5000/-
MEx-12	: SB withdrawal slip dt. 22.03.1982 for Rs. 800/-	MEx-32	: Ch. No. 926124 dt. 26.02.1982 for Rs. 5000/-
MEx-13	: SB withdrawal slip dt. 25.03.1982 for Rs. 1000/-	MEx-33	: Ch. No. 926125 dt. 18.03.1982 for Rs. 7000/-
MEx-14	: SB withdrawal slip dt. 25.03.1982 for Rs. 500/-	MEx-34	: Account opening form dt. 05.03.1982 in respect of SB Account No. 18495 of Sri B K Srikantegouda
MEx-15	: SB withdrawal slip dt. 29.03.1982 for Rs. 6700/-	MEx-35	: Specimen signature card dt. 05.03.1982 in respect of the above
MEx-16	: SB withdrawal slip dt. 01.04.1982 for Rs. 3000/-	MEx-36	: SB Pay in slip dt. 11.03.1982 for Rs. 10000/-
MEx-17	: SB withdrawal slip dt. 03.04.1982 for Rs. 3000/-	MEx-37	: SB Pay in slip dt. 12.04.1982 for Rs. 1000/-
MEx-18	: SB withdrawal slip dt. 07.04.1982 for Rs. 5000/-	MEx-38	: Ch. No. 934140 dt. 16.03.1982 for Rs. 6000/-
MEx-19	: SB withdrawal slip dt. 13.04.1982 for Rs. 10000/-	MEx-39	: Ch. No. 934581 dt. 22.03.1982 for Rs. 1100/-

MEx-40	:	Ch. No. 934582 dt. 31.03.1982 for Rs. 3000/-	MEx-60	:	SB Account withdrawal slip dt. 07.04.1982 for Rs. 1000/-
MEx-41	:	Ch. No. 934585 dt. 15.04.1982 for Rs. 13000/-	MEx-61	:	Certified extract of SB ledger folio of SB a/c 6058 from 30.12.1981 to 07.04.1982 (4 sheets)
MEx-42	:	Letter No. Court Cases/2402 dt. 10.09.1982 from the Manager, Canara Bank, Vyalikaval Branch, Bangalore addressed to Sri T K Ramakrishnan	MEx-62	:	Letter No. OR/Misc./NSR/11775/82 dt. 13.09.1982 from the Sr. Manager, Vijaya Bank, KG Road, Bangalore addressed to Sri T K Ramakrishnan
MEx-43	:	CXC of SB ledger sheet No. 021461 in respect of SB account No. 18420 of B K Shivanna	MEx-63	:	Account opening form dt. 29.03.1977 in respect of SB Account No. 13942 of Sri H K Bettaiah
MEx-44	:	CXC of SB ledger sheet No. 834939 in respect of SB account No. 18495 of Sri Srikantegouda	MEx-64	:	Specimen signature card dt. 02.01.1982 in respect of the above
MEx-45	:	Letter dt. 10.09.1982 from the Manager, SBM, Vyalikaval Branch, Bangalore, addressed to the Inspector of Police	MEx-65	:	Pay in slip dt. 26.11.1981 for Rs. 5000/-
MEx-46	:	SB Account opening from dt. Nil in respect of SB Account No. 6058 of Sri Srikantegouda	MEx-66	:	Pay in slip dt. 02.12.1981 for Rs. 4000/-
MEx-47	:	SB account pay in slip dt. 05.01.1982 for Rs. 6000/-	MEx-67	:	Pay in slip dt. 05.12.1981 for Rs. 4000/-
MEx-48	:	SB account pay in slip dt. 12.01.1982 for Rs. 5000/-	MEx-68	:	Ch. No. 485008 dt. 30.11.1981 for Rs. 4600/-
MEx-49	:	SB account pay in slip dt. 16.01.1982 for Rs. 5040/-	MEx-69	:	Ch. No. 926121 dt. 01.12.1981 for Rs. 200/-
MEx-50	:	SB account pay in slip dt. 24.01.1982 for Rs. 6000/-	MEx-70	:	Ch. No. 926121 dt. 04.12.1981 for Rs. 4000/-
MEx-51	:	SB account pay in slip dt. 27.01.1982 for Rs. 7000/-	MEx-71	:	Ch. No. 926121 dt. 01.12.1981 for Rs. 200/-
MEx-52	:	SB account pay in slip dt. 01.04.1982 for Rs. 7000/-	MEx-72	:	Ch. No. 926121 dt. 08.12.1980 for Rs. 4000/-
MEx-53	:	SB Account withdrawal slip dt. 07.01.1982 for Rs. 6000/-	MEx-73	:	Statement of account in respect of SB Account No. 13942 from 01.01.1981 to 02.12.1981 in the manuscript and from 02.12.1981 to 01.09.1982 xerox copy (5 sheets)
MEx-54	:	SB Account withdrawal slip dt. 15.01.1982 for Rs. 5000/-	MEx-74	:	Letter dt. 20.2.1982 from the Manager, Indian Bank, Camarajpet Branch, Bangalore, addressed to Sri T K Ramakrishnan
MEx-55	:	SB Account withdrawal slip dt. 27.01.1982 for Rs. 5000/-	MEx-75	:	SB Account opening form cum specimen signature card dt. 06.01.1981 in respect of SB Account No. 4621 in the name of Smt. Mangalamma
MEx-56	:	SB Account withdrawal slip dt. 28.01.1982 for Rs. 6000/-	MEx-76	:	SB challan dt. 04.03.1982 for Rs. 10000/-
MEx-57	:	SB Account withdrawal slip dt. 30.01.1982 for Rs. 7000/-	MEx-77	:	SB challan dt. 10.03.1982 for Rs. 5000/-
MEx-58	:	SB Account withdrawal slip dt. 03.04.1982 for Rs. 5000/-			
MEx-59	:	SB Account withdrawal slip dt. 07.04.1982 for Rs. 1305/-			

MEx-78	:	SB challan dt. 02.04.1982 for Rs. 10000/-	MEx-97	:	Ch No. 796452 dt. 11.04.1982 for Rs. 5000/-
MEx-79	:	Ch. No. 670201 dt. 09.03.1982 for Rs. 65000/-	MEx-98	:	Letter No. 259/128/259/Gen dt. 15.04.1982 of Syndicate Bank, Wilson Garden Branch, Bangalore, addressed to the Manager, Vijaya Bank, P G Halli, Bangalore
MEx-80	:	Ch. No. 670202 dt. 13.03.1982 for Rs. 8100/-	MEx-99	:	Written Memo dt. 15.04.1982 from Syndicate Bank, Wilson Garden Branch, regarding Ch. No. 427321 dt. 10.04.1982.
MEx-81	:	Ch. No. 670205 dt. 07.04.1982 for Rs. 9900/-	MEx-100	:	Statement of account in respect of SB A/c No. 9001 of Sri L Shivanna from 31.03.1982 to 09.06.1982.
MEx-82	:	Certified extract of SB ledger folio of SB A/c 4621 from 06.01.1981 to 04.05.1982	MEx-101	:	Letter No. Gen/4293 dt. 24.09.1982 of the Manager, New Bank of India, Malleswaram Branch, Bangalore, addressed to Sri T K Ramakrishnan
MEx-83	:	Letter No. 4058/82 dt. 20.09.1982 from the Manager, Karnataka Bank, Rajajinagar, Addressed to Sri T K Ramakrishnan	MEx-102	:	SB Account opening form in respect of Jt. SB Account No. 842 in the names of Sri C K Channaiah and Smt. Narasamma
MEx-84	:	SB Account opening form dt. 23.04.1980 in respect of SB Account No. 7635 of Sri Y R Muniyappa	MEx-103	:	Specimen signature card dt. 12.01.1981 in respect of the above
MEx-85	:	Specimen signature card dt. 02.01.1982 in respect of the above	MEx-104	:	Pay in slip dt. 12.04.1982 for Rs. 5000/-
MEx-86	:	Pay in slip dt. 03.03.1982 for Rs. 10000/-	MEx-105	:	Order form dt. 15.04.1982 for withdrawal of Rs. 500/-
MEx-87	:	Pay in slip dt. 10.03.1982 for Rs. 10000/-	MEx-106	:	Order form dt. 15.04.1982 for withdrawal of Rs. 500/-
MEx-88	:	Pay in slip dt. 13.04.1982 for Rs. 11600/-	MEx-107	:	Order form dt. 16.04.1982 for withdrawal of Rs. 3500/-
MEx-89	:	Ch. No. 150140 dt. 05.03.1982 for Rs. 10000/-	MEx-108	:	Order form dt. 01.05.1982 for withdrawal of Rs. 500/-
MEx-90	:	Ch. No. 157501 dt. 12.03.1982 for Rs. 10000/-	MEx-109	:	Extract of SB ledger folio of SB A/c 842 from 12.01.1981 to 15.01.1982
MEx-91	:	Certified extract of SB ledger folio of SB a/c 5635 from 28.04.1980 to 20.09.1982 (2 sheets)	MEx-110	:	Letter No. Misc./953 dt. 29.09.1982 of the Manager, SBM, Madhavanagar, Bangalore addressed to Sri T K Ramakrishnan
MEx-92	:	Letter No. KRR/82 dt. 24.09.1982 of the Manager, Vijaya Bank, P G Halli, Bangalore, addressed to Sri T K Ramakrishnan	MEx-111	:	SB Account opening form dt. 13.02.1981 in respect of SB Account No. 3338 in the name of Sri H K Puttamadaiah
MEx-93	:	SB Account opening form cum specimen signature card dt. 31.03.1982 in respect of SB Account No. 9001 in the name of Sri L Shivanna	MEx-112	:	Specimen signature card in respect of the above
MEx-94	:	SB credit challan dt. 08.04.1982 for Rs. 15000/-	MEx-113	:	Credit challan dt. 16.12.1981 for Rs. 4000/-
MEx-95	:	SB credit challan dt. 10.04.1982 for Rs. 15000/-			
MEx-96	:	Ch. No. 796451 dt. 10.04.1981 for Rs. 10000/-			

MEx-114	:	Credit challan dt. 28.12.1981 for Rs. 6000/-	MEx-136	:	Ch. No. 698460 dt. 15.01.1982 for Rs. 400/-
MEx-115	:	Credit challan dt. 18.03.1982 for Rs. 10000/-	MEx-137	:	Ch. No. 700562 dt. 16.01.1982 for Rs. 500/-
MEx-116	:	Withdrawal form dt. 18.12.1981 for Rs. 3975/-	MEx-138	:	Ch. No. 700983 dt. 18.01.1982 for Rs. 130/-
MEx-117	:	Withdrawal form dt. 01.01.1982 for Rs. 6000/-	MEx-139	:	Ch. No. 701131 dt. 20.01.1982 for Rs. 5100/-
MEx-118	:	Withdrawal form dt. 19.03.1982 for Rs. 7100/-	MEx-140	:	Ch. No. 701132 dt. 20.01.1982 for Rs. 3200/-
MEx-119	:	Withdrawal form dt. 20.03.1982 for Rs. 2600/-	MEx-141	:	Ch. No. 287069 dt. 02.08.1981/ 20.01.1982 for Rs. 600/-
MEx-120	:	Extract of SB ledger folio of SB A/c 3338 of Sri H K Puttamadaiah from 13.02.1981 to 31.03.1982 (2 sheets)	MEx-142	:	Ch. No. 701133 dt. 21.01.1982 for Rs. 250/-
MEx-121	:	Acknowledgement dt. 05.10.1982 for taking over records	MEx-143	:	Ch. No. 701134 dt. 23.01.1982 for Rs. 9100/-
MEx-122	:	SB account pay in slip dt. 10.12.1981 for Rs. 2500/-	MEx-144	:	Ch. No. 701135 dt. 25.01.1982 for Rs. 75/-
MEx-123	:	SB account pay in slip dt. 16.12.1981 for Rs. 6000/-	MEx-145	:	Ch. No. 701136 dt. 27.01.1982 for Rs. 1000/-
MEx-124	:	SB account pay in slip dt. 22.12.1981 for Rs. 3000/-	MEx-146	:	Ch. No. 701137 dt. 28.01.1982 for Rs. 100/-
MEx-125	:	SB account pay in slip dt. 06.01.1982 for Rs. 6000/-	MEx-147	:	Ch. No. 701138 dt. 05.02.1982 for Rs. 300/-
MEx-126	:	SB account pay in slip dt. 12.01.1982 for Rs. 10000/-	MEx-148	:	Ch. No. 703139 dt. 05.02.1982 for Rs. 5200/-
MEx-127	:	SB account pay in slip dt. 02.02.1982 for Rs. 10000/-	MEx-149	:	Ch. No. 703140 dt. 09.02.1982 for Rs. 1320/-
MEx-128	:	SB account pay in slip dt. 02.03.1982 for Rs. 7000/-	MEx-150	:	Ch. No. 703101 dt. 10.02.1982 for Rs. 200/-
MEx-129	:	SB account pay in slip dt. 05.01.1982 for Rs. 7000/-	MEx-151	:	Ch. No. 703103 dt. 26.02.1982 for Rs. 200/-
MEx-130	:	Ch. No. 697761 dt. 14.12.1981 for Rs. 2490/-	MEx-152	:	Ch. No. 703104 dt. 01.03.1982 for Rs. 100/-
MEx-131	:	Ch. No. 698451 dt. 18.12.1981 for Rs. 6000/-	MEx-153	:	Ch. No. 703107 dt. 05.03.1982 for Rs. 500/-
MEx-132	:	Ch. No. 698453 dt. 26.12.1981 for Rs. 3000/-	MEx-154	:	Ch. No. 703106 dt. 05.03.1982 for Rs. 3200/-
MEx-133	:	Ch. No. 698455 dt. 12.01.1982 for Rs. 4500/-	MEx-155	:	Ch. No. 703108 dt. 06.03.1982 for Rs. 2700/-
MEx-134	:	Ch. No. 698457 dt. 13.01.1982 for Rs. 1000/-	MEx-156	:	Ch. No. 703109 dt. 18.02.1982 for Rs. 590/-
MEx-135	:	Ch. No. 695458 dt. 15.01.1982 for Rs. 75/-	MEx-157	:	Xerox copy of ledger sheet No. 519755 in respect of SB Account No. 8942

MEx-158	:	Letter No. BRP/Fraud/1572/82/MRM dt. 05.10.1982 of the Sr. Manager, Canara Bank, Byatarayanapura, addressed to Sri T K Ramakrishnan	MEx-173	:	SB Account ledger extract (original) in respect of SB A/c No. 15533 in the name of Sri L Shivanna from 27.07.1979 to 13.04.1982 (7 sheets)
MEx-159	:	Xerox copy of specimen signature card dt. 15.03.1979 in respect of SB account No. 8942	MEx-174	:	Ch. No. 435066 dt. 01.01.1982 for Rs. 2000/-
MEx-160	:	True extract of the clearing waste sheet (subsidiary) of Canara Bank, Byatarayanapura, Bangalore	MEx-175	:	Ch. No. 421236 dt. 01.01.1982 for Rs. 200/-
MEx-161	:	Xerox copy of account opening form dt. 15.03.1979 in respect of SB Account 8942 of Sri T Devendra Reddy	MEx-176	:	Ch. No. 421237 dt. 01.02.1982 for Rs. 200/-
MEx-162	:	Letter dt. 11.10.1982 of New Bank of India, Malleswaram, Bangalore	MEx-177	:	Withdrawal slip No. 522144 dt. 04.02.1982 for Rs. 50/-
MEx-163	:	Receipt dt. 12.11.1982 for taking over record.	MEx-178	:	Withdrawal slip No. 522514 dt. 10.02.1982 for Rs. 250/-
MEx-164	:	Statement made by Sri L Shivanna in his own handwriting and signed on 20 paise revenue stamp on a white paper regarding 3 cheques for Rs. 4000/-, Rs. 6000/- and Rs. 10000/-	MEx-179	:	Withdrawal slip No. 522579 dt. 12.02.1982 for Rs. 150/-
MEx-165	:	Receipt dt. 16.11.1982 for taking over record	MEx-180	:	Withdrawal slip No. 522604 dt. 12.02.1982 for Rs. 10/-
MEx-166	:	Statement made by Sri L Shivanna in his own handwriting and signed on 20 paise revenue stamp on a white paper regarding 3 cheques for Rs. 5000/-, Rs. 4000/- and Rs. 4000/-	MEx-181	:	Withdrawal slip No. 523464 dt. 02.03.1982 for Rs. 100/-
MEx-167	:	Receipt dt. 16.11.1982 for taking over record	MEx-182	:	Withdrawal slip No. 185026 dt. 30.03.1982 for Rs. 100/-
MEx-168	:	Stamp paper (No. 174 for Rs. 7/- issued to Sri L Shivanna on 05.04.1982) signed by Sri L Shivanna, Syndicate Bank, Wilson Garden on 05.04.1982 for having received Rs. 20000/- from Sri Y R Muniyappa	MEx-183	:	Withdrawal slip No. 195180 dt. 01.04.1982 for Rs. 200/-
MEx-169	:	Letter No. 2557 dt. 15.04.1982 of the Manager, Karnataka Bank, Rajajinagar, regarding return of Ch. No. 427323 dt. 13.04.1982 for Rs. 11600/-	MEx-184	:	Withdrawal slip No. 185256 dt. 02.04.1982 for Rs. 200/-
MEx-170	:	Receipt dt. 19.01.1983 for taking over record	MEx-185	:	Withdrawal slip No. 185396 dt. 03.04.1982 for Rs. 200/-
MEx-171	:	Inward schedule dt. 13.04.1982 received from Syndicate Bank, Central Accounts Office, Bangalore (Original)	MEx-186	:	Pay in slip dt. 04.02.1982 for Rs. 30/-
MEx-172	:	Xerox copy of SB ledger in respect of SB Account No. 13963 of Smt. Aswathamma	MEx-187	:	Pay in slip dt. 03.02.1982 for Rs. 150/-
			MEx-188	:	Pay in slip dt. 05.01.1982 for Rs. 200/-
			MEx-189	:	Pay in slip dt. 01.01.1982 for Rs. 400/-
			MEx-190	:	Clearing schedule dt. 05.01.1982 for Rs. 87809.08
			MEx-191	:	Clearing schedule dt. 07.01.1982 for Rs. 51673.23
			MEx-192	:	Clearing schedule dt. 13.01.1982 for Rs. 176675.95
			MEx-193	:	Clearing schedule dt. 21.01.1982 for Rs. 205195.14
			MEx-194	:	Clearing schedule dt. 25.01.1982 for Rs. 259,947.71
			MEx-195	:	Clearing schedule dt. 27.01.1982 for Rs. 143139.57

MEx-196	:	Clearing schedule dt. 03.02.1982 for Rs. 222168.76	MEx-216	:	Clearing Schedule dt. 23.12.1981 for Rs. 36900.54 of Canara Bank, Byatarayanapura, Bangalore
MEx-197	:	Clearing schedule dt. 04.02.1982 for Rs. 110733.55	MEx-217	:	Clearing Schedule dt. 29.12.1981 for Rs. 152919.68 of State Bank of Mysore, Madhavanagar, Bangalore
MEx-198	:	Clearing schedule dt. 09.02.1982 for Rs. 83307.97	MEx-218	:	Clearing Schedule dt. 01.01.1982 for Rs. 2000.00 of Bank of Baroda, Palace Orchards, Bangalore
MEx-199	:	Clearing schedule dt. 23.02.1982 for Rs. 93974.32	MEx-219	:	Clearing Schedule dt. 05.01.1982 for Rs. 16700/- of State Bank of Mysore, Vyalikaval, Bangalore
MEx-200	:	Clearing schedule dt. 02.03.1982 for Rs. 107115.18	MEx-220	:	Clearing Schedule dt. 07.01.1982 for Rs. 8078/- of Canara Bank, Byatarayanapura, Bangalore
MEx-201	:	Clearing schedule dt. 03.03.1982 for Rs. 537043.18	MEx-221	:	Clearing Schedule dt. 12.01.1982 for Rs. 5000/- of State Bank of Mysore, Vyalikaval, Bangalore
MEx-202	:	Clearing schedule dt. 05.03.1982 for Rs. 39263.60	MEx-222	:	Clearing Schedule dt. 12.01.1982 for Rs. 19894.48 of Canara Bank, Byatarayanapura, Bangalore
MEx-203	:	Clearing schedule dt. 10.03.1982 for Rs. 92027.10 (5 Nos.)	MEx-223	:	Clearing Schedule dt. 21.01.1982 for Rs. 20356.74 of Canara Bank, Byatarayanapura, Bangalore
MEx-204	:	Clearing schedule dt. 11.03.1982 for Rs. 40781.66 (4 Nos.)	MEx-224	:	Clearing Schedule dt. 23.01.1982 for Rs. 9317.01 of State Bank of Mysore, Vyalikaval, Bangalore
MEx-205	:	Clearing schedule dt. 12.03.1982 for Rs. 61361.87 (4 Nos.)	MEx-225	:	Clearing Schedule dt. 27.01.1982 for Rs. 7119.16 of State Bank of Mysore, Vyalikaval, Bangalore
MEx-206	:	Clearing schedule dt. 16.03.1982 for Rs. 65038.18	MEx-226	:	Clearing Schedule dt. 03.02.1982 for Rs. 36389.66 of Canara Bank, Byatarayanapura, Bangalore
MEx-207	:	Clearing schedule dt. 18.03.1982 for Rs. 215057.41	MEx-227	:	Clearing Schedule dt. 04.02.1982 for Rs. 51961.01 of Canara Bank, Byatarayanapura, Bangalore
MEx-208	:	Clearing schedule dt. 29.03.1982 for Rs. 116546.65	MEx-228	:	Clearing Schedule dt. 09.02.1982 for Rs. 115619.10 of Canara Bank, Byatarayanapura, Bangalore
MEx-209	:	Clearing schedule dt. 01.04.1982 for Rs. 96751.83	MEx-229	:	Clearing Schedule dt. 09.02.1982 for Rs. 11399.00 of Canara Bank, Byatarayanapura, Bangalore
MEx-210	:	Inter Branch pass book from 11.07.1981 to 23.04.1982	MEx-230	:	Clearing Schedule dt. 23.02.1982 for Rs. 50537.40 of Canara Bank, Byatarayanapura, Bangalore
MEx-211	:	Clearing Schedule dt. 27.11.1981 for Rs. 429258.41 of Vijaya Bank, K G Road, Bangalore	MEx-231	:	Clearing Schedule dt. 02.03.1982 for Rs. 14300.00 of Bank of Baroda, Palace Orchards, Bangalore
MEx-212	:	Clearing Schedule dt. 03.12.1981 for Rs. 36,082.31 of Vijaya Bank, K G Road, Bangalore			
MEx-213	:	Clearing Schedule dt. 07.12.1981 for Rs. 128127.88 of Vijaya Bank, K G Road, Bangalore			
MEx-214	:	Clearing Schedule dt. 11.12.1981 for Rs. 5231.95 of Canara Bank, Byatarayanapura, Bangalore			
MEx-215	:	Clearing Schedule dt. 16.12.1981 for Rs. 483711.43 of Canara Bank, Byatarayanapura, Bangalore			

MEx-232	:	Clearing Schedule dt. 03.03.1982 for Rs. 34273.89 of Karnataka Bank, Rajajinagar, Bangalore	MEx-248	:	Clearing Schedule dt. 13.04.1982 for Rs. 15270.00 of Karnataka Bank, Rajajinagar, Bangalore
MEx-233	:	Clearing Schedule dt. 03.03.1982 for Rs. 30518.89 of Canara Bank, Byatarayanapura, Bangalore	MEx-249	:	Clearing Schedule dt. 13.04.1982 for Rs. 36098.12 of Vijaya Bank, K G Road, Bangalore
MEx-234	:	Clearing Schedule dt. 05.03.1982 for Rs. 11346.80 Indian Bank, Chamarajpet, Bangalore	MEx-250	:	Clearing Cheques Register of Canara Bank, Vyalikaval, Bangalore
MEx-235	:	Clearing Schedule dt. 10.03.1982 for Rs. 10830.06 of Karnataka Bank, Rajajinagar, Bangalore	MEx-251	:	Branch Clearing Register of Vijaya Bank, K G Road, Bangalore, for 1981-82
MEx-236	:	Clearing Schedule dt. 11.03.1982 for Rs. 60093.86 of Canara Bank, Byatarayanapura, Bangalore	MEx-252	:	Local drafts book of Indian Bank, Chamarajpet, Bangalore for 1982
MEx-237	:	Clearing Schedule dt. 11.03.1982 for Rs. 7793.26 of Indian Bank, Chamarajpet, Bangalore	MEx-253	:	Clearing Ledger of Vijaya Bank, Palace Guttahalli, Bangalore for 1982
MEx-238	:	Clearing Schedule dt. 12.03.1982 for Rs. 7000.00 of Bank of Baroda, Palace Orchards, Bangalore	MEx-254	:	Outward clearing scroll of SBM, Madhavnagar, Bangalore for 1981-82
MEx-239	:	Clearing Schedule dt. 16.03.1982 for Rs. 59066.15 of Canara Bank, Byatarayanapura, Bangalore	MEx-255	:	Register for local clearing cheques of Karnataka Bank, Rajajinagar for 1982
MEx-240	:	Clearing Schedule dt. 18.03.1982 for Rs. 48702.55 of State Bank of Mysore, Vyalikaval, Bangalore	MEx-256	:	Outward clearing scroll of SBM, Vyalikaval, Bangalore
MEx-241	:	Clearing Schedule dt. 29.03.1982 for Rs. 10100.00 of Bank of Baroda, Palace Orchards, Bangalore	MEx-257	:	CC Waste of Canara Bank, Byatarayanapura, Bangalore for 1981-82
MEx-242	:	Clearing Schedule dt. 01.04.1982 for Rs. 8428.63 of Canara Bank, Byatarayanapura, Bangalore	MEx-258	:	Clearing register of New Bank of India, Malleswaram, Bangalore for 1985
MEx-243	:	Clearing Schedule dt. 05.04.1982 for Rs. 10729.40 of Indian Bank, Chamarajpet, Bangalore	MEx-259	:	Outward clearing register of Bank of Baroda, Palace Orchards, Bangalore for 1982
MEx-244	:	Clearing Schedule dt. 07.04.1982 for Rs. 74906.25 of Bank of Baroda, Palace Orchards, Bangalore	MEx-260	:	Cheque Books issued register of Syndicate Bank, Wilson Garden, Bangalore
MEx-245	:	Clearing Schedule dt. 08.04.1982 for Rs. 19485.00 of Vijaya Bank, K G Road, Bangalore	MEx-261	:	Attendance Register of Syndicate Bank, Wilson Garden Branch, Bangalore
MEx-246	:	Clearing Schedule dt. 12.04.1982 for Rs. 24312.85 of Canara Bank, Byatarayanapura, Bangalore	MEx-262	:	Clearing voucher ledger of Syndicate Bank, Central Accounts Office, Clearing Section Bangalore for 1981-82
MEx-247	:	Clearing Schedule dt. 12.04.1982 for Rs. 5656.59 of New Bank of India, Malleswaram, Bangalore	MEx-263	:	Confession letter dt. 13.04.1982 of Sri L. Shivanna addressed to Manager, Syndicate Bank, Wilson Garden Branch, Bangalore
			MEx-264	:	Ch. No. 427321 dt. 10.04.1982 for Rs. 15000/- drawn on Syndicate Bank, Wilson Garden Branch, in favour of Sri L. Shivanna

MEx-265	:	Office Order Book of Syndicate Bank, Wilson Garden Branch	MEx-284	:	Statement of Sri M.K. Bettaiah, S/o Kataiah dt. 16.11.1992
MEx-266	:	Clearing inward register for the period from Feb 1981 to 24.04.1982 of Wilson Garden Branch, Bangalore	MEx-285	:	Statement of Sri Y.R. Muniyappa, S/o Rangaiah, dt. 16.11.1992
MEx-267	:	Cheque Returned Register folios of Wilson Garden Branch, Bangalore	MEx-286	:	Statement of Sri N. Thas, S/o late Nalla Thambi, dt. 06.01.1993
MEx-268	:	Account opening form dt. 27.07.1979 fo Sri L. Shivanna and Speciment signature card in respect of SB 15533	MEx-287	:	Statement of Smt. Narasamma, W/o Sri C.K. Channaiah, dt. 06.01.1993
MEx-269	:	Specimen writings of Sri L Shivanna - 15 sheets	MEx-288	:	Statement of Sri C.K. Channaiah, S/o Late Chelvaiah dt. 06.01.1993
MEx-270	:	Copy of FIR in RC No. 22/82 dt. 24.07.1982 - 4 sheets	MEx-289	:	Statement of Sri Shankaranayarana Navada, Asst. Manager, Syndicate Bank, Wilson Garden Branch, Bangalore
MEx-271	:	GEQD opinion No. CH. 444/3 dt. 06.06.1993	MEx-290	:	Statement of Smt. K. Rama, Special Assistant, Syndicate Bank, Wilson Garden Branch, Bangalore
MEx-272	:	Statement of B.R.K. Bhat, Manager, Canara Bank Vyalikaval Branch	MEx-291	:	Statement of Sri D. Sethuram, Clerk, Syndicate Bank, Wilson Garden Branch, Bangalore
MEx-273	:	Statement of Sri N. Shankar Alva, Sr. Manager, Vijaya Bank, Chamarajpet Branch, Bangalore	MEx-292	:	Statement of Smt. Mangalamma, W/o Krishnappa dt. 13.01.1993
MEx-274	:	Statement of Sri T.R.S. Dave, Manager, Indian Bank Chamarajpet Branch Bangalore	MEx-293	:	Statement of Sri L. Srikantegowda, S/o Karegouda dt. 13.01.1993
MEx-275	:	Statement of Sri K.V. Shetty, Manager, Vijaya Bank, K.G. Road, Bangalore	MEx-294	:	Statement of Sri Stanley Maben, Clerk, Syndicate Bank, Wilson Garden Branch, Bangalore
MEx-276	:	Statement of Sri K. Rajkumar, Manager, State Bank of Mysore, Madhav Nagar, Bangalore	MEx-295	:	Statement of Sri M.S. Bhat, Manager (Inspection), Syndicate Bank, Regional Inspectorate, Bangalore
MEx-277	:	Statement of Sri T.M. Heramba, Manager, Karnataka Bank, Rajajinagar, Bangalore	MEx-296	:	Statement of Smt. Kala Lakshman Hegde, Special Assistant, Syndicate Bank, Bangalore
MEx-278	:	Statement of Smt. Usha Sunder Raj, Manager, State Bank of Mysore, Vyalikaval, Bangalore	MEx-297	:	Statement of Smt. Mukta G., Officer, Syndicate Bank, Tumkur
MEx-279	:	Statement of Sri S.M. Shenoy, Manager, Canara Bank, Cottonpet Branch, Bangalore	MEx-298	:	Statement of Sri S.R. Prahladachar, No. 16, Raghavendra Colony Bangalore
MEx-280	:	Statement of Sri V. Murali, Accountant & Incharge, NBI, Malleswaram	MEx-299	:	Statement of Smt. Shanti S. Rao, Clerk, Syndicate Bank, City Market Branch, Bangalore
MEx-281	:	Statement of Smt. Jacqueline Colaco, Manager, Bank of Baroda, Palace Orchards, Bangalore	MEx-300	:	Statement of Smt. M. Shantakumari, Clerk, Syndicate Bank, J.C. Road, Bangalore
MEx-282	:	Statement dt. 11.11.1992 of Sri T. Devendra Reddy, S/o Sri Papi Reddy	MEx-301	:	Statement of Smt. Padma Prasad, Clerk, Syndicate Bank, Shoolay Branch, Bangalore
MEx-283	:	Statement of Sri K.H. Puttamadaiah, S/o Kalaiah, dt. 16.11.1992			

- MEx-302 : Statement of Smt. Joyce Ammanna, Clerk, Syndicate Bank, Wilson Garden Branch, Bangalore
- MEx-303 : Statement of Sri C.C. Devaiah, Clerk, Syndicate Bank, Wilson Garden Branch, Bangalore
- MEx-304 : Statement of Sri Chickasiddaiah, Attender, Syndicate Bank, Wilson Garden Branch, Bangalore
- MEx-305 : Statement of Sri Jayaram Shenoy, Asst. Manager, Clearing Section, Syndicate Bank, CAO: Bangalore
- MEx-306 : Statement of Sri P. Nityananda Prabhu, Asst. Manager, CAO: Bangalore
- MEx-307 : Statement of B.S. Mathurkar, S.I. of Police, Bangalore
- MEx-308 : Statement of Sri K. Vittal Shetty, Officer, Vijaya Bank, DO : Bellary
- MEx-309 : Acknowledgement dt. 22.01.1983 of the Investigating Officer for having received certain records
- MEx-310 : Statement of Sri B.K. Shivanna dt. 31.01.1983
- MEx-311 : Statement of Sri L. Shivanna dt. 08.01.1983 and 02.02.1983
- MEx-312 : Statement of Sri B. Krishnappa dt. 21.02.1983
- MEx-313 : CBI letter dt. 12.05.1983 addressed to GEQN, Hyderabad along with a list of questioned documents.

नई दिल्ली, 19 मई, 2015

का.आ. 1063.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार न्यु मंगलोर पतन न्यास के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलोर के पंचाट (संदर्भ सं. 13/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.05.2015 को प्राप्त हुआ था।

[सं० एल-45011/2/2008-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th May, 2015

S.O. 1063.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 13/2009) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the Industrial dispute between

the management of New Mangalore Port Trust and their workmen, received by the Central Government on 14/05/2015.

[No. L-45011/2/2008-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, YESWANTHPUR, BANGALORE-560022

Date : 31st December, 2014

Present :

Shri S. N. Navalgund, Presiding Officer

C R No. 13/2009

I Party

The General Secretary, New Mangalore Port & General Employees Assn, Behind NMP Co-op Canteen, Near AO Bdg, Panambur, Mangalore

II Party

The Chairman, New Mangalore Port Trust, Panambur, Mangalore

Appearances :

I Party : Shri I T Poojary
Advocate

II Party : Shri Ramesh Upadhyaya
Advocate

AWARD

1. The Central Government vide order No. L-45011/2/2008-IR (B-II) dated 24.2.2009 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made this reference for adjudication with the following schedule:

SCHEDULE

“Whether the management of New Mangalore Port Trust is justified in not promoting Shri Raju Poojary, Wireman (HS Gr. II) to the post of Electrician (Crafts) by amending the Recruitment Rules or by relaxing clause 31 of New Mangalore Port Trust Employees (Recruitment, Seniority and Promotion) Regulations, 1980’ what relief the concerned workman is entitled to?”

2. On receipt of the reference while registering it in CR 13/2009 when notices were issued to both sides I Party entered his appearance through Sh. I T Poojary, advocate and filed his claim statement on 25.08.2010, whereas, the II Party appeared through Sh. Ramesh Upadhyaya, Advocate and filed his counter statement on 22.12.2010.

3. After II party leading its evidence of Sh. Prem Kumar, Law officer as MW 1 (M) and the matter was at the stage of cross-examining him by the I Party Counsel the workman covered in this reference by filling a copy of the Order dated 26.11.2014 of Assistant Secretary, Marine Department of the II Party company appointing him as Wireman, HSG-II EC No. 1010 by promotion to the post of Electrician (Crafts) to the pay scale of Rs. 21000-53500 on regular basis with an option to exercise for fixation of pay in terms of FR 22 (1) (a)(1) within one month from the date of issue of the Order since submits that matter is settled and it may be closed the reference came to be closed. In view of the submission of the workman covered in this reference that his claim has been settled by virtue of the order dated 26.11.2014 copy of which is referred to above since reference doesn't survive, I pass the following.

ORDER

The reference is Rejected by virtue of the submission made by the workman covered in this reference in view of Order dated 26.11.2014 being appointed as Wireman, HSG II, EC No. 1010 by promotion to the post of Electrician (Crafts) to the pay scale of Rs. 21000-53500 on regular basis with an option to exercise for fixation of pay in terms of FR 22 (1)(a)(1) within one month from the date of issue of the Order.

(Dictated to U D C transcribed by him, corrected and signed by me on 31st December, 2014)

S. N. NAVALGUND, Presiding Officer

नई दिल्ली, 19 मई, 2015

का.आ. 1064.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बैंगलूर के पंचाट (संदर्भ सं. 3/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.05.2015 को प्राप्त हुआ था।

[सं० एल-12011/121/2008-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th May, 2015

S.O. 1064.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.No. 3/2006) of the Cent. Govt. Indus. Tribunal-cum-Labour Court-Bangalore as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen, received by the Central Government on 14-05-2015.

[No. L-12011/121/2008-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, YESWANTHPUR, BANGALORE-560022

Dated : 25th November, 2014

Present :

Shri S. N. Navalgund, Presiding Officer

C R No. 03/2006

I Party

The General Secretary,
Canara Bank Employees,
Union No. 24, Crescent
Road,
Bangalore-560001

II Party

The Regional Manager
Central Bank of India,
Regional Office, P B
No. 5129, 24 Crescent Road,
Bangalore-560001

Appearances :

I Party : Shri A. J. Srinivasan, Advocate

II Party : Shri Pradeep S. Sawkar,
Advocate

AWARD

1. The Central Government vide order No. L-12011/121/2008-IR (B-II) dated 05.01.2006 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made this reference for adjudication with the following schedule:

SCHEDULE

“Whether the action of management of Central Bank of India in discharging Shri B V Raghavendra, Part-time Safaikarmachari, Malleswaram Branch, Bangalore from the services of the bank with superannuation benefits of the bank with superannuation benefits without disqualification from future employment w.e.f. 03.07.2003 is legal and justified? If not, to what relief he is entitled and from which date?”

2. On receipts of the reference while registering it in CR 03/2006 when notices were issued to both the sides, they entered their appearance through their respective advocates and I Party filed his claim statement on 30.10.2006 and II Party filed its counter statement on 19.01.2007.

3. The I party in his claim statement since contended the Domestic Enquiry conducted was not fair and proper, the finding of the Enquiry Officer is perverse and that the punishment imposed is disproportionate while framing a Preliminary Issue as to

“Whether the Domestic Enquiry held against the I Party by the II Party is fair and proper?”

after receiving the evidence adduced by both the sides and hearing their learned advocates the said issue was being answered in the affirmative holding that the Domestic Enquiry conducted against him was fair and proper by order dated 21.01.2011, the learned advocates appearing for both sides addressed their oral arguments on merits. The brief facts leading to this reference and award may be stated as under.

4. The I party who was appointed by II Party as Part Time Sweeper on one third wages on probation for a period of 6 months from 13.05.1996 at CSI Extension Counter attached to Bangalore City Branch and was confirmed w.e.f. 13.11.1996 and was later elevated to Part Time Safai Karmachari (PTSK) on half wages w.e.f. 01.04.1999 and was transferred to Its JC Road Branch was served with Memo dated 20.03.2002 as under:

“Mr. B V Raghavendra, PTSK, on 1/2 of scale of pay and allowance, while working at J C Road Branch has committed the following lapses:—

1. On 19/1/2001, Mr. Raghavendra had given a withdrawal No. 25177 dated 19/9/2001, on account No. 7919 for Rs. 5000/- of Basavangudi Branch, Pertaining to B S Vasudeva Rao. Immediate credit was afforded to his account. Mr. Raghavendra removed the relevant withdrawal from the home clearing MF 12845 for Rs. 5000/- from the clearing bag. No balance was available in HSS A/c 7919 of Mr. V S Vasudeva Rao at Basavanagudi Branch.

2. Mr. Raghavendra further had discounted a cheque No. 85406 for Rs. 2500/- on 07/10/2001 at Katriguppa Branch, drawn on his personal account No. 7990 of J C Road Branch, without keeping sufficient balance in his personal account. When Katriguppa Branch sent the withdrawal to J C Road Branch, through NBO, vide Home Clearing MF No. 6559, dated 09/10/2001, raised by NBO on J C Road Branch he has managed to remove MF from clearing bag. The MF for Rs. 13953.88/- was inclusive of his discounted cheque alongwith other instruments.

Mr. Raghavendra, has altered the manifold on 11/10/2001, and re-inserted the removed Manifold on 11/10/2001 only to make it appear that the MF does not pertain to the previous date.

You are advised to give a written explanation and show cause why disciplinary action for your misconduct as defined in 19.5(j) of Bipartite Settlement should not be initiated within 7 days from the date of receipt of the memo.

If your written explanation is not received within the time stipulated, we will presume that you no explanation to offer and we will proceed accordingly.”

Though the I Party admitted the charges qualifying that the said action on his part was due to paralytic stroke suffered by his father for which he was in need of funds for medical treatment he was served with the charge sheet dated 22.05.2002 as under:

“Charge sheet

Attention of Mr. B V Raghavendra, PTSK (on 1/2 of scale of pay and allowances) presently working at Malleswarm Branch, Bangalore, is drawn to the Memo bearing No. MVM/2001-02 dated 20.3.2002, wherein he was asked to submit his explanation within 7 days from the receipts of said memo asking him why disciplinary action should not be initiated against him for lapses/commission and omissions mentioned therein.

Mr. Raghavendra has submitted his reply to the Memo dated 20.03.2002 and his reply has been found unsatisfactory. As such it has been decided to conduct Department Enquiry against him for the following lapses which constitute gross misconduct under para 19.5.(j) of Bipartite Settlement dated 19.10.1966.

On 19.09.2001 Mr. B V Raghavendra lodged with out J C Road Branch a withdrawal bearing No. 25177 dated 19.09.2001 for Rs. 5000/- drawn on HSS A/c No. 7919 of Mr. B.S. Vasudeva Rao, with our Basavanagudi Branch. Immediate credit was afforded to his account. Mr. Raghavendra removed the relevant withdrawal from the home clearing Manifold No. 12845 for Rs. 5000/- available in HSS A/c 7919 of Mr. B S Vasudeva Rao at Basavangudi Branch to meet the said withdrawal form. Thus Mr. Raghavendra derived a pecuniary benefit from the bank which was not due to him.

On 07.10.2001 Mr. B V Raghavendra got discounted at our Katriguppa Branch a cheque bearing No. 85409 for Rs. 2500/- drawn on his HSS A/c No. 7990 with our J C Road Branch, without keeping sufficient balance in the said account. When Katriguppa Branch sent the withdrawal to J C Road Branch through NBO vide home clearing Manifold No. 6589 dated 09.10.2001 for Rs. 13,953.88 raised by NBO on J.C. Road Branch, he was managed to remove from the clearing bag the said Manifold which contained the discounted cheque besides other instruments.

Mr. Raghavendra has altered the date of the manifold No. 6589 dated 09.10.2001 as 11.10.2001 to make it appear that the manifold does not pertain to previous date. Thus Mr. B V Raghavendra has committed the following misconduct:-

1. He has derived pecuniary benefits from the Bank by discounting the cheques/withdrawals when sufficient balance to meet the said instruments was not available in the respective accounts.

2. He had indulged in removing/retaining manifolds containing the cheques and also in materially altering one of the manifolds in order to conceal his act detailed under para (1).

Thereby Mr. B V Raghavendra has acted in a manner which is prejudicial to the interest of the Bank as defined in chapter 19.5(j) of Bipartite Settlement 1966.

Mr. B V Raghavendra is further informed that the department enquiry against his will be held by Shri C R Ananthanarayanan, Senior Manager, Brigade Road Branch. He should note that if he fails to appear before the Enquiry Officer on the date, time and place that is indicated to him, the enquiry will be liable to be held ex-parte by the Enquiry Officer and such orders as may be deemed fit, just and proper will be passed and such orders will be conclusive and binding on you.

Mr. B V Raghavendra should also note that he will be permitted to be defended of registered Trade Union of the Bank Employees of which he is the member. At the enquiry, he should also keep ready with him all oral and documentary evidences, which he wishes to produce or tender on his behalf and he will also be allowed to cross-examine the witnesses which he may be produced by the Management during the enquiry proceedings and also he should inform the Enquiry Officer the name of the representative and name of the witnesses he intends to produce at the enquiry on his behalf.

Sd/-

B N S Rathnakar
Disciplinary Authority”

and ordered to face disciplinary enquiry by appointing Sh. C R Ananthanarayanan as Enquiry Officer and Sh. D S Vijaya Bhaskar Char as Presenting Officer. The Enquiry Officer while scheduling the first date of enquiry on 26.12.2002 causing notice to the I party securing his presence observed the formalities of preliminary hearing and there also he since pleaded guilty referring to his reply to memo dated 26.03.2002 on submission by the Presenting Officer that in view of the admission of charges by the CSE/I Party the enquiry may be concluded received the documentary evidence that management intend to reply on the charges. Accordingly the Enquiry Officer on that day while receiving the certified copies of the MF No. 12845 dated 19.09.2001 for Rs. 5000/- originated from JC Road Branch; Withdrawal form No. 25177 dated 18.09.2001 for Rs. 5000/- drawn on HSS 7919 of Basavangudi branch; Withdrawal form dated 15.09.2001 for Rs. 5000/- drawn on HSS 7990 of JC Road Branch; Letter dated 16.10.2001 written by Mr. B V Raghavendra addressed to Branch Manager JC Road Branch; MF No. 6567 dated 09.10.2001 (altered as 11.10.2001) for Rs. 13953.88; List of Cheques/instruments attached with the above said MF 6567; letter dated 02.11.2002 written by Mr. B V Raghavendra addressed to the Manager Branch office, JC Road; Paying in slip for Rs. 2500/- dated 07.10.2001 on HSS 8598 of branch office Katriguppa; Paying in slip for Rs. 5000/- dated 16.10.2001 on HSS 8598 of branch officer Katriguppa; MF No. 2735 dated 16.09.2001 for Rs. 5000 originated from Katriguppa branch; Statement of A/C of Mr. B V Raghavendra of HSS 7990 with branch office JC Road for the period from 01.09.2001 to 02.11.2001 and letter dated 26.03.2002 written by Mr. B V Raghavendra addressed to the Manager, Central

Bank of India, Malleswaram Branch and marking them as Ex-1 to Ex-13 as requested by CSE/ I Party for his say adjourned to 04.01.2003 and on that day on the submission made by CSE admitting the charges as stated in his reply to the Memo requesting to condone the lapses on his part and produced Letter dated 26.12.2002 written by CSE to B/O JC Road; letter dated 26.03.2002 written by CSE to B/O Malleswaram; Medical Certificate dated 18.09.2001 and counterfoil dated 12.10.2001 marking them Ex D-1 to D-4 directed the Presenting Officer and the CSE to file the written briefs within a period of 10 days and on Presenting Officer filing his written brief on 05.01.2003 and failure of the CSE/I Party to file his written brief he submitted his enquiry report to the Disciplinary Authority dated 22.01.2003 the charges being proved. Then the Disciplinary Authority while forwarding the copy of the Enquiry Officer and show cause notice proposing the punishment of discharge from service with superannuation benefits i.e. Pension and or Provident Fund and gratuity as would be due otherwise under the Rules or Regulations prevailing at the relevant time and without disqualification from future employment. On receipt of the reply similar to his reply to the Memo with request to condone the lapses on his part after affording opportunity of his personal hearing passed the order of punishment of discharge from service with superannuation benefits i.e. Pension and or Provident Fund and gratuity as would be due otherwise under the Rules or Regulations prevailing at the relevant time and without disqualification from future employment. On appeal by the CSE/I Party to the Assistant General Manager, the Appellate Authority affording him an opportunity of hearing since dismissed the appeal confirming the order passed by the Disciplinary Authority the CSE/I Party approached the ALC(C) with conciliation petition and as he submitted FOC Dated 18.07.2005 the ministry made this reference for adjudication.

5. Since by raising a preliminary issue touching the fairness of the Domestic Enquiry same has been held in favour of the management and arguments have been addressed on merits by the learned advocate appearing for both the sides the points that arises for my consideration are:

Point No. 1: Whether the I Party demonstrates the enquiry finding on charge being proved is perverse necessitating the interference of this tribunal?

Point No. 2: If not whether I Party demonstrates the punishment imposed is disproportionate to the said misconduct proved against him?

Point No. 3: What order/Award?

6. On appreciation of the pleadings, evidence brought on record in the Domestic Enquiry with the arguments put forward by the learned advocates appearing for both sides my finding on Point No. 1 and 2 are in the Negative and Point No.3 is as per the final order for the following :

REASONS

7. The learned advocate appearing for the I Party urged that the admission of charges is due to an understanding given to the I Party that if he admits the lenient view will be taken the Enquiry Officer relying on such admission and giving his finding is unsustainable but the same being considered and rejected while considering the Preliminary Issue touching the fairness of the Domestic Enquiry now that plea is not available to the I Party. Moreover, besides reply to the Memo the CSE/I Party having unequivocally admitted the charges during the preliminary hearing by Enquiry Officer while referring to his reply to the memo the contention that such admission was made because he was given to understand that a lenient view will be taken is unacceptable. In view of such unequivocal admission of the charges submitting that the same was done as he was in financial need to meet the medical expenses of his father who had suffered paralytic stroke there was no need for the Enquiry Officer to record evidence of the management and rightly receiving the documentary evidence tendered for the management and exhibiting them by way of consent of the CSE after affording opportunity to file written brief which was availed only by the Presenting Officer he rightly proceeded to submit his enquiry report and as the charges were unequivocally admitted and same were also supported by documentary evidence tendered for the management, absolutely, I find no reason to say the finding of the Enquiry Officer the charges being proved as baseless or perverse. Since to the show cause notice issued by the Disciplinary Authority the CSE/I Party having admitted the charges and pleaded for mercy on the ground that he did this impugned actions as he was in financial difficulties to meet the medical expenses of the paralytic stroke of his father the Disciplinary Authority having regard to the admitted action/misconduct by the CSE/I Party of discounting/removing/retaining of cheques/withdrawals found him not suitable to continue in service by his detailed order in which I find no infirmity and even the learned advocate appearing for the CSE/I Party could not demonstrate how it could be termed as disproportionate to such admitted misconduct on the part of the I Party. In the result, I arrive at conclusion that there are no reasons to interfere either in the enquiry report holding the I Party as guilty of the charges or to term the punishment being disproportionate. In the result while answering Point No. 1 and 2 in the Negative, I pass the following

ORDER

The action of the management of Central Bank of India in discharging Shri B V Raghavendra, Part Time Safai karmachari, Malleswaram Branch, Bangalore from the services of the Bank with superannuation benefits without disqualification from future employment w.e.f. 03.07.2003 is legal and justified and that he is not entitle for any relief.

S. N. NAVALGUND, Presiding Officer

नई दिल्ली, 19 मई, 2015

का.आ. 1065.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ सं. 16/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/05/2015 को प्राप्त हुआ था।

[सं० एल-12012/17/2010-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th May, 2015

S.O. 1065.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/2010) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen, received by the Central Government on 14/05/2015.

[No. L-12012/17/2010-IR(B-II)]

RAVI KUMAR, Officer Desk

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
YESWANTHPUR, BANGALORE - 560 022**

Dated : 27th April, 2015

Present :

Shri S. N. Navalgund, Presiding Officer

CR No. 16/2010**I Party**

Smt. Vanitha S. Rao,
U1, 4th Floor, "Sai
Venkateshwara", Ganesha
Block, 1st Main Road,
Bengaluru - 560 020.

II Party

The Regional Manager,
Central Bank of India,
Bangalore Regional Office,
P B No. 5129, 24, Crescent
Road, Bengaluru - 560 001.

Appearances :

I Party : Sh. K. Srinivasa,
Advocate

II Party : Sh. Pradeep S. Sawakar,
Advocate

AWARD

1. The Central Government vide Order No. L-12012/17/2010-IR(B-II) dated 05.05.2010 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Disputes Act, 1947 has made this reference for adjudication with following Schedule:

SCHEDULE

“Whether the action of the management of Central Bank of India, Bangalore regional office, Karnataka in inflicting the punishment of dismissal to Smt. Vanitha S Rao, Ex-Head Cashier II from the Services without notice w.e.f. 28.09.2007 is justified and legal? What relief the applicant is entitled to?”

2. On receipt of the reference while registering it in C R 16/2010 when notices were issued to both the sides, I Party and II Party entered their appearance through their respective advocate and I party filed her claim statement on 16.08.2010 and II Party filed its counter statement on 15.12.2010.

3. The brief facts leading to this reference and award may be stated as under.

4. Smt. Vanitha S Rao (hereinafter referred as I Party) while working as Head Cashier II at Central Bank of India, Nanjangud Branch (hereinafter referred as II Party) was issued with charge sheet dated 02.02.2007 as under:

“Charge Sheet

Mrs. Vanitha S Rao, Head Cashier II (Emp. No. 041545) working at Nanjangud Branch was served with a Memo RO: HRD:2006-07/2910 dated 02.02.2007 on 07.02.2007 wherein she was called upon to submit her reply within 3 days. Mrs. Vanitha Rao requested for extension of time by one week, which was granted by the Competent Authority. But she has not submitted her reply till date. Hence it has been decided to initiate Disciplinary Action against her for the following lapses:

CHARGE

Mrs. Vanitha S. Rao availed a loan of Rs. 3,00,000/- on 28.02.2002 from UCO bank, Peenya Branch, Bangalore under their “Mega Cash Scheme” by mortgaging a flat on the 4th floor of the premises bearing New Corporation No. 1 and its adjacent No. 2/5 situated at J Block, Ist Main, Pipeline, Seshadripuram, Bangalore 560020 which was gifted to here by her husband Mr. K. Srinivas vide gift deed dated 22.12.2001. She has given a notarized undertaking to UCO Bank that should produce the Originals of the Gift Deed dated 2.12.2001, Khata Certificate, latst Tax Paid Receipt, Sanction Plan and license to UCO Bank, Pennya Branch, Bangalore. But Mrs. Vanitha Rao failed to deposit the said original Gift deed to the Bank.

Mrs. Vanitha Rao has, extended Personal Guarantee in favour of UCO Bank, Peenya Branch, Bangalore on 31.12.2001 for the credit facility of Rs. 37.00 lacs (-CC-Rs. 32 lacs and Term Loan - Rs. 5.00 lacs) sanctioned to M/s. Urethane India, a partnership firm run by her husband Mr. K. Srinivas and sons, which facility was sanctioned

against the security of the entire building belonging to Mr. K. Srinivas and situated at New No. 1 and its adjacent No. 2/5 situated at J Block, Ist Main, Pipeline, Seshadripuram, Bangalore 560 020 which includes the flat on the 4th floor of the premises bearing New Corporation no. 1 and its adjacent No. 2/5 situated at J Block, Ist Main, Pipeline, Seshadripuram, Bangalore 560 020 which was already gifted to Mrs. Vanitha S. Rao. Since the firm had defaulted in repayment a recovery suit has been filed against the borrower and the guarantor.

Mrs. Vanitha S. Rao has availed a Mortgage loan of Rs. 5.50 lacs on 26.04.2004 from the Grain Merchants Co-op Bank Ltd. Chamrajpet, Bangalore against the deposit of Original Gift Deed dated 22.12.2001 covering the property viz. a flat on the 4th floor of the premises bearing New Corporation No. 1 and its adjacent No. 2/5 situated at J Block, Ist Main, Pipeline, Seshadripura, Bangalore 560 020.

Mrs. Vanitha S. Rao has stood as guarantor for the credit facility availed by M/s Urethane India from Indian Bank, Benson Town Branch, Bangalore by creating an Equitable Mortgage on the property gifted to her by her husband vide Gift Deed dated 22.12.2001 covering the property viz. a flat on the 4th floor of the premises bearing New Corporation No. 1 and its adjacent No. 2/5 situated at J Block, Ist Main, Pipeline, Seshadripuram, Bangalore 560 020.

Mrs. Vanitha S. Rao has committed the acts of misconduct as under:

1. She has not obtained prior permission from the Competent Authority when she was borrowing such huge loans from other financial institutions or guaranteeing huge financial liabilities.

2. She has cheated the said financial institutions by fraudulently mortgaging the same property as security for different loans availed by her and her relatives.

3. She has defaulted the said financial institutions in the capacity of borrower and guarantor.

Thus Mrs. Vanitha S. Rao has committed fraudulent acts her acts constitute a gross misconduct in terms of para 5(j) of the memorandum of Settlement on Disciplinary Action Procedure for workmen dated 10.04.2002.

Mrs. Vanitha S Rao is hereby informed that Mr. Rajan Venkatraman, Senior Manager, Peenya Branch will be holding the enquiry against her. Date, time and place of enquiry will be communicated to her by Enquiry Officer. She will be given full opportunity in the enquiry to inspect the documents which will be field by the Management and to produce evidence, documentary as well as oral. Mrs. Vanitha S. Rao, if she so desires, may take the assistance of a representative of the Registered Trade Union of Bank

Employees of which she is a member for representing her case of defence.

Sd/-
(N SANKARANARAYANAN)
Disciplinary Authority/Chief Manager

Corrigendum

Attention of Mrs. Vanitha S. Rao, HC-II, Nanjangud Branch is drawn to the Charge Sheet No. BASAVA/HRD/2006-07/1000 dated 22.02.2007 served on her. She is hereby informed that in Para 1 of the second page of the Charge Sheet:

Gift Deed date should be read as “20.11.2003” instead of 22.12.2001”

“Flat on the 4th Floor” should be read as “Flat on the third floor”

All other things remain unchanged.

Sd/-
(N Sankaranarayanan)
Disciplinary Authority/
Chief Manager”

5. Since the I party did not give any reply the Disciplinary Authority while appointment Sh. Rajan Venkatraman as Enquiry Officer and Sh. A Srinidhi as Presenting Officer asked the I party to face Domestic Enquiry. The Enquiry Officer while securing the presence of both the parties after observing the formalities of preliminary hearing receiving the evidence of Smt. Gayathri Gangoli, Senior Manager, Malleswaram Branch; Smt. Vijayakumari, Senior Manager, Indian Bank, Malleswaram Branch; Sri Ramkumar, Superintendent, Grain Merchants Co-op Bank, Chamrajpet, Bangalore and Sh. M Ragunath, DCO, UCO Bank, Regional Office, Bangalore as MWI to MW4 exhibiting MEX-1 to MEX-91 and DEX-1 to DEX-12 on behalf of defence the detailed description of which are narrated in the Annexure after submission of written brief by both the sides submitted his report dated 16.06.2007 charges as proved. Then the Disciplinary Authority after issuance of Show Cause and affording opportunity of hearing to CSE imposed punishment of Dismissal from Service by order dated 28.09.2007, on appeal by the I party to the Appellate Authority, the Appellate Authority confirmed the order of the Disciplinary Authority vide order dated 08.09.2008 and then the I party approached ALC(C), Bangalore in conciliation and as it ended in failure vide his report dated 16.02.2010 it resulted in this reference.

6. Having regard to certain allegations made in the claim statement touching the fairness of the Domestic Enquiry while raising a Preliminary Issue as to

“Whether the Domestic Enquiry held against the I party by the II Party is fair and proper?”

after receiving the evidence adduced by both the sides the said issue has been answered in the affirmative *i.e.*, the Domestic Enquiry conducted by the II Party is fair and proper by order dated 22.05.2013. Thereafter, when the matter was posted for Evidence of I party on the point of Victimization and being not gainfully employed counsel for I Party while filling the affidavit of I Party examining her on oath as WW 1(V) and as counsel for II Party submitted that he has no evidence to lead the said points. The matter stood thus arguments addressed by counsel for both sides were heard.

7. Since the Domestic Enquiry conducted by the II party against the I Party has been held as Fair and Proper by order dated 22.05.2013, the points that now arises for my consideration are:

Point No. 1: Whether the finding of the Enquiry Officer the charges are proved is perverse necessitating the interference of this tribunal?

Point No.2: If not, whether the punishment imposed is disproportionate to the proved misconduct?

Point No. 3: What Order/Award?

8. On appreciation of the charges with the pleadings and evidence brought on record in the Domestic Enquiry with the enquiry report and the orders of Disciplinary Authority and the Appellate Authority imposing the punishment of Dismissal from Service in the light of the arguments put forward by both the sides my finding on Point No. 1 is in the Affirmative and No. 2 and 3 as per the final order for the following

REASONS

9. The charges against the I party being that she availed a loan of Rs. 3,00,000.00 on 28.02.2002 from UCO Bank, Peenya Branch under the Mega Cash scheme by Mortgaging a Flat on the third floor on the premises bearing New Corporation no. 1 and its adjacent No. 2/5 situated at J Block, Ist Main, Pipeline, Seshadripuram, Bangalore by furnishing notarised undertaking that she would produced the originals of the gift deed in her favour dated 22.12.2001, khata certificate and latest Tax Paid Receipt, Sanction Plan and licence to UCO Bank, Peenya Branch, Bangalore but failed to deposit the original gift deed to the Bank; secondly she extended personal guarantee in favour of UCO Bank, Peenya Branch, Bangalore on 31.12.2001 for the credit facility of Rs. 37,00,000.00 sanctioned to M/s. Urethane India a partnership firm run by her Husband and Sons which facility was sanctioned against the security of the entire building standing in her Husband's Name and the firm having defaulted in repayment a recovery suit has been filed against the borrower and the guarantor; thirdly she availed a mortgage loan of Rs. 55,00,000.00 from Grain Merchants Co-op Bank Limited Chamrajpet, Bangalore against the deposit of Gift deed on 22.12.2001 covering the

property a flat on the third floor on the New Corporation no.1 and its adjacent No. 2/5 situated at J Block, Ist Main, Pipeline, Seshadripuram, Bangalore; and that she has stood as guarantor the credit facility availed by the Urathane India from Renison Town Branch Bangalore by creating an equitable mortgage of property gifted to her by her husband vide Gift Deed dated 22.12.2001 covering the property New Corporation no.1 and its adjacent No. 2/5 situated at J Block, Ist Main, Pipeline, Seshadripuram, Bangalore and that it has been alleged by UCO and Indian Banks that she has colluded with her family members in defrauding them and on these facts it is stated she has not obtained prior permission from the competent authority when she was borrowing huge loans from other financial institution and financial liabilities and that she cheated the said financial institution by fraudulently mortgaging the same property as security for different loan for her and her relatives and has also defaulted the said financial institutions in the capacity of borrower and guarantor and thereby she committed fraudulent acts and her acts constitute gross misconduct in terms of Para 5(j) of Memorandum of Settlement dated 10.04.2002. Since there is no much dispute about the facts of borrowing and standing as Guarantor and defaults in repayment of the loan the Point that arises for the consideration is whether these acts do amount to gross-misconduct by the I Party under Para 5(i) of Memorandum of Settlement. In order to appreciate whether these facts alleged and almost admitted by the I Party amount to gross misconduct as per Para 5(j) of the Memorandum of Settlement I wish to quote here Para 5 (j) of Memorandum of Settlement dated 10.04.2002/27.05.2002 copy of which has been produced by the counsel for the II Party with memo dated 02.04.2014

“Para 5 : By the expression “gross misconduct” shall be meant any of the following acts and omissions on the part of an employee:

(j) doing any act prejudicial to the interest of the bank or gross negligence or negligence involving or likely to involve the bank in serious loss”.

On plain reading of the facts of charges levelled against the I Party they do not constitute acts prejudicial to the interest of the bank or gross-negligence or negligence involving or likely to involve the bank in serious loss, therefore, the alleged facts do not constitute gross-misconduct as defined under Para 5(j) of Memorandum of Settlement. The learned advocate appearing for the II party who could not substantiate these acts do amount of gross-misconduct as envisaged under Para 5(j) of the Memorandum of Settlement tried to convince the court that the alleged acts amount to engaging in any trade or business outside the scope of her duties except with the written permission of the Bank which is gross misconduct as envisaged under Para 5(a) of Memorandum of Settlement.

First of all it is not the charge that the alleged facts do amount to engaging in any trade or business outside the scope of her duties except with the permission of the bank, therefore, now there is no scope for the II Party to take such a stand that the alleged acts amounts to engaging in trade or business outside the scope of her duties as such, such a argument does not hold any water. Moreover, only because she stood guarantor to a firm run by her Husband and sons and also borrowed some money from the other banks it cannot be said straight away without any evidence that it amounts to engaging in trade or business outside the scope of her duties. Moreover no provision is pointed out from the memorandum of Settlement to stand as guarantor or to borrow money from other financial institutions the employee of the II Party is required to take written permission of the Bank. Under these circumstances though the facts of borrowing standing guarantee and committing default in payment of the loans are proved being not disputed the finding of the Enquiry Officer that charge of gross misconduct as envisaged under Para 5 (j) of the Memorandum of Settlement is proved is baseless and perverse. Under the circumstances, I have arrived at conclusion that the findings of the Enquiry Officer the charges of gross-misconduct levelled against the I Party are proved are perverse and consequently the punishment imposed by the Disciplinary Authority and upheld by the Appellate Authority on such findings are unsustainable.

10. In view of my finding that the findings of the Enquiry Officer charges are proved is perverse and the punishment imposed by the Disciplinary Authority and confirmed by the Appellate Authority on such enquiry finding are unsustainable the I Party is entitled for reinstatement. Since the evidence of the I Party that she has not been gainfully employed after her dismissal from service being not rebutted by any evidence acceptable to the conscience of this tribunal she is also entitled for full backwages as well as continuity of service being dismissed from Service without proof of any misconduct on her part. In the result, I pass the following

ORDER

The action of the management of Central Bank of India, Bangalore regional office, Karnataka in inflicting the punishment of Dismissal on Smt. Vanitha S Rao, Ex-Head Cashier II from the services without notice *w.e.f.* 28.09.2007 is not justified and legal and that she is entitle for reinstatement with full backwages, continuity of Services and all other consequential benefits that she would have received in the absence of the impugned punishment of dismissal.

(Dictated to U D C, transcribed by him, corrected and signed by me on 27th April 2015)

S. N. NAVALGUND, Presiding Officer

Annexure-I			
Documents exhibited on behalf of the Management in Domestic Enquiry		MEx-19	: From No a-21a (3000) of UCO Bank
		MEx-20	: Letter of waiver dated 28-02-2002 of UCO Bank
MEx-1	: Letter No. Malleshwararn Branch: 2006:290:STAFF dated 22-09-2006	MEx-21	: DP note for Rs.300000/-
MEx-2	: Letter dated 22-09-2006 addressed to Malleshwaram Branch.	MEx-22	: Letter dated 11-01-2002 addressed to UCO Bank.
MEx-3	: Letter from Malleshwaram Branch No. Malleshwaram Branch : 2006 : 292 : STAFF dated 22-09-2006	MEx-23	: Salary slip of Smt. Vanitha S Rao for Dec 2001.
MEx-4	: Letter No. RO; HRD: 2006-07:1568 dated 14-09-2006 from Regional Office, Bangalore	MEx-24	: Salary slip of Smt. Vanitha S. Rao for January 2002.
MEx-5	: Letter dated 22-09-2006 addressed to Malleshwaram Branch	MEx-25	: Affidavit Dated 07-01-2002
MEx-6	: Letter No. MALLES:2006:309;HRD dated 30-09-2006 Of Malleshwaram Branch	MEx-26	: Draft of Letter of Deposit of title deeds to be obtained
MEx-7	: Letter dated 30-09-2006 addressed to Regional Office, Bangalore,	MEx-27	: Gift Deed dated 22-12-2001
MEx-8	: Letter No. RO:HRD;2006-07: 1754 dated 05-10-2006 of Regional Office, Bangalore	MEx-28	: Guarantor's Statement of UCO Bank
MEx-9	: Letter No. 2006:321:STAFF dated 11-10-200 of Malleshwaram Branch	MEx-29	: Guarantor's Statement of UCO Bank 31-12-2001
MEx-10	: Letter No. RO:HRD: 2006-07: 1754 dated 05-10-2006 of Regional Office, Bangalore	MEx-30	: Acknowledgement to Debt/Securities 31-03-2005
MEx-11	: Letter NO. 2006:363:HRD dated 07-1-2006 of Malleshwaram Branch	MEx-31	: Agreement for A21A of UCO Bank signed by Arua Rao Vanitha Rao
MEx-12	: Letter No. RO:HRD:2006-07:2138 dated 02-11-2006 Regional-Office, Bangalore	MEx-32	: Agreement form A-21 of UCO Bank and Vanitha Rao
MEx-13	: Letter No. RO:HRD:2006-07:2150 Dated 03-11-2006 of Regional Office, Bangalore	MEx-33	: Agreement form A-21 A pf of UCO Bank signed by Arun Rao
MEx-14	: Letter No. MISC:PEN:2005-06:351 dated 21-12-2005 of UCO Bank	MEx-34	: Letter No. MALLLES:2005-05: STAFF dated 03-01-2006 from Malleshwaram Branch
MEx-15	: Letter No:2006:156:staff dated 30-05-2006 of Malleshwaram Branch	MEx-35	: Letter dated 12th Dec 2005 of Indian Bank
MEx-16	: letter No. MISC:PEN: 2006-07:70 Dated 29-05-2006 of UCO Bank	MEx-36	: Letter dated 10th March 2006 of Indian Bank
MEx-17	: Letter No. UCO Bank:Peenya:06-07:166 dated 23.01.2006 of UCO Bank	MEx-37	: Letter NO:CO:VIG:2749: 2006-07 dated 21-07-2006 of Indian Bank
MEx-18	: Agreement relating to loan under UCO MEGA Cash Scheme of UCO Bank	MEx-38	: Letter No. IBBT:CR:NPA:UI:2006-07 dated 18th Jan 2007 of Indian Bank
		MEx-39	: Details of Assets and Liabilities of Indian Bank
		MEx-40	: Consent Letter from the guarantor for disclsoure of Information dated 21-06-2004
		MEx-41	: Agreement of guarantee form D-57
		MEx-42	: Gift Deed dated 20-11-2003
		MEx-43	: Letter of acknowledgement dated 30-06-2004 addressed to Indian Bank

MEx-44	:	Application by Mrs Vanitha Rao for loan under UCO MEGA Cash Scheme	MEx-65	:	Auction Sale Notice by UCO Bank dated 28-11-2005
MEx-45	:	Letter dated 01-01-2002 regarding confirmation of deposit of Title Deeds by Sri Srinivas	MEx-66	:	Auction Sale Notice dated 28-11-2005 by Indian Bank published in Vijaya Kamataka dated 29th November 2005
MEx-46	:	Letter for extension of EM created on 31-12-2001	MEx-67	:	Letter dated 27-12-2005 by Indian Bank, Circle Office, Bangalore addressed to RM, RM UCO Bank, Bangalore
MEx-47	:	Circular on UCO Mega Cash of UCO Bank	MEx-68	:	Letter dated 28-02-2006 by UCO Bank, RO, Bangalore to UCO Bank, Peenya Branch
MEx-48	:	Sanction Advice of UCO Bank, dated 28-02-2002 for sanction of loan of Rs. 3.00 to Smt. Vanitha Rao	MEx-69	:	Letter dated 09-05-2006 from Police Inspector, JC Nagar Police Station, addressed to UCO Bank, Peenya
MEx-49	:	Sanction letter of UCO Bank, for sanction of facilities to M/s Urethane India	MEx-70	:	Branch Wise Instrument List for 18-10-2003 & Copy of Voucher dated 20-0-2003 for Rs. 93405/-
MEx-50	:	Guarantee agreement in form A-21 of UCO Bank dated 04-04-2002 for facilities to M/s Urethane India	MEx-71	:	Cheque No. 87921 for Rs. 93405/- dated 17-10-2003 fvg UCO Bank & Return Memo dated 18-10-2003
MEx-51	:	Acknowledgement of Debt dated 31-03-2005 for Rs. 58,19,193/- in respect of Urethane India	MEx-72	:	Letter dated 26-11-2004 of Vanita S. Rao addressed to UCO Bank
MEx-52	:	Letter dated 04-04-2004 addressed to UCO Bank for extension of EM	MEx-73	:	Application for Credit Facilities by Urethane India
MEx-53	:	English Version of Sale deed dated 28-01-1980	MEx-74	:	Sanction Letter dated 21-06-2004 by Indian Bank, Benson Town Branch to Urethane India
MEx-54	:	Statement of Account of Loan Account No.LN 8223 with UCO Bank	MEx-75	:	Notice under Sec 13(2) of SARF AESI act from Indian Bank, Beson Town Branch
MEx-55	:	Statement of Account of CC a/c CC No. 1047 in the name of Urethane India	MEx-76	:	Possession Notice for Immovable property by Authorised Officer of Indian Bank
MEx-56	:	Statement of Account of CC a/c CC No. 1047 in the name of Urethane India	MEx-77	:	Building Plan in respect of Site No. 1, Ist Block, Pipe Line, Ward No. 6, Bangalore
MEx-57	:	Statement of Account of Loan ale No.LN8223	MEx-78	:	EC dated 24-11-2005 for the period from 01-04-1990 to 31-03-05
MEx-58	:	Sale Deed dated 28-01-1980	MEx-79	:	Application by Indian Bank before the Additional Chief Metropolitan Magistrate
MEx-59	:	Auction Sale Notice by UCO Bank dated 20-02-2006	MEx-80	:	Statement of Account of Indian Bank in respect of A/c Urethane India
MEx-60	:	Possession Notice dated 13-09-2004	MEx-81	:	Statement of Account of Legal expenses and Memorandum of Interest by Indian Bank
MEx-61	:	Postal Receipts and acknowledgement			
MEx-62	:	Notice dated 25-06-2004 by UCO Bank addressed to Smt. Vanita S. Rao			
MEx-63	:	News Paper Publication in the paper Indian Express dated 13-09-2005			
MEx-64	:	Notice dated 19-04.2005 addressed to Mr. K. Srinivas			

MEx-82	:	Memorandum relating to the Deposit to Title Deeds by Vanitha S. Rao in favour of Grain Merchants co-op Bank Ltd.	DEx-8	:	Statement of A/c of SBI39475 of Smt. Vanitha S. Rao
MEx-83	:	Gift Deed dated 22-12-2001 executed by Sri K. Srinivas in favour of Vanitha S. Rao	DEx-9	:	Statement of Account of Current A/c CA14895 of M/s. Urethane India
MEx-84	:	EC dated 15/03/2002 for the period from 14-01-1998 to 14-03-2003	DEx-10	:	Statement of Account of Loan No. 6972 of Sri K. Srinivas
MEx-85	:	Khata Certificate dated 05-01-2004 issued by Bangalore Mahanagara Palike	DEx-11	:	Statement of Account of Loan A/c 7669 of Smt. S. Vanitha S. Rao
MEx-86	:	Tax Paid Receipt dated 05-01-2004	DEx-12	:	Statement of Account of CC A/c 1947 of M/s. Urethane India
MEx-87	:	EC dated 03-02-2003 for the period from 01/02/2001 to 27/01/2003	नई दिल्ली, 19 मई, 2015 का.आ. 1066. —औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार विजय बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय, बैंगलोर के पंचाट (संदर्भ सं. 50/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 14.05.2015 को प्राप्त हुआ था।		
MEx-88	:	MR for 2002-03 dated 05-01-2004 from BMP (Revenue Dept.			
MEx-89	:	Salary Slip of Vanitha S. Rao for the month of Feb. 2004			
MEx-90	:	Form 16 issued to Vanitha S. Rao for the period from 01-04-2002 to 31-03-2003	[सं एल-12011/73/2001-आईआर (बी-II)] रवि कुमार, डेस्क अधिकारी		
MEx-91	:	Statement of Account of Grain Merchant's Co-Op Bank Ltd. In respect of Loan a/c ML090/174 of Vanitha	New Delhi, the 19th May, 2015		

Documents exhibited on behalf of the CSE in Domestic Enquiry

DEx-1	:	Letter dated 04-01-2006 from Lal Associates, addressed to the Senior Manager, UCO Bank, Peenya
DEx-2	:	Letter dated 21-02-2005 from Lal Associates, addressed to the Senior Manager, UCO Bank, Peenya
DEx-3	:	Reply by Smt. Vanitha S Rao dated 28-02-2007 to the RO memo No:RO:HRD:2006-07:2910 dated 02-02-2007
DEx-4	:	Application for loan under Mega Cash Scheme by Sri K Srinivas
DEx-5	:	List of new advances sanctioned during the course of day-Mega Cash Scheme of Sri K. Srinivas
DEx-6	:	Application of credit facilities by M/s. Urethane India
DEx-7	:	Copy of recommendations for financing M/s. Urethane India

S.O. 1066.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 50/2001) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of Vijaya Bank and their workmen, received by the Central Government on 14/05/2015.

[No. L-12011/73/2001-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, YESWANTHPUR, BANGALORE - 560 022

DATED : 3rd February, 2015

Present :

Shri S. N. Navalgund, Presiding Officer

C R No. 50/2001

I Party,

The General Secretary,
Vijaya Bank Workers
Organisation, 37/1, I floor,
Car Street, Ulsoor,
Bangalore - 560 008.

II Party

The Regional Manager,
Vijaya Bank,
Head Office, 41/2, M. G Road,
Trinity Circle,
Bangalore - 560 001.

Appearances

- I Party : :Shri B D Kuttappa
Advocate
- II Party : : Shri Udayshankar Rai
Advocate

AWARD

1. The Central Government vide Order No. L-12011/73/2001-IR(BII) dated 20.07.2001 in exercise of the powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule:

SCHEDULE

“Whether the action of the management of Vijaya Bank to dismiss Shri N Shankare Gowda, Special Assistant from service is justified and legal? If not, what relief the concerned workman is entitled to?”

2. On receipt of the reference while registering it in C R 50/2001 when notices were issued to both the sides they entered their appearance through their respective advocate and I party filed his claim statement on 14.12.2001 and II party file counter statement on 03.09.2002.

3. The brief facts leading to this reference and award may be stated as under.

4. Sh. N Shankare Gowda (herein after referred as I Party) while serving as Special Assistant at Doddamagga branch of Vijaya Bank (herein after referred as II Party) was served with charge sheet dated 17.11.1999 as under :

“Charge Sheet

You were working as Special Assistant at Bank's Doddamagga branch from 24.11.97 till the date of your suspension i.e., 20.7.99.

It is reported against you as under:

Smt. Saroja, a customer of Doddamagge Branch maintaining SB a/c No. 4392 came to the branch on 24.05.1999 for the purpose of withdrawal of Rs. 1800/- from her SB a/c. You had issued a loose cheque bearing No. 224875 to her and obtained her signature on the said cheque. In the said loose cheque, you had written for withdrawal of Rs. 6,800/- and the said amount was withdrawn from the SB a/c of Smt. Saroja. However, you had paid only Rs. 1,800/- to the customer and to suppress your said fraudulent acts, entered her ass boos in your own handwriting, stating the withdrawal as Rs. 1,800/- only in her SB a/c and mentioning the balance as Rs. 5087/- on the above date. Subsequently, when the customer had come to the branch on 28.06.1999 for the purpose of conversion of Rs. 5000/- lying in her SB a/c to term deposit account, it was revealed that the actual balance in her S.B. a/c ledger sheet was only Rs. 87/- and the amount withdrawn on 24.05.1999 was Rs. 6,800/-.

An investigation conducted into the matter revealed that you had written the loose cheque for Rs. 6,800/- in your own handwriting and also made the debit entry of Rs. 1,800/- in the pass book on 24.05.1999. Hence, it is clear that you have deliberately written Rs. 1,800/- as withdrawal amount and misappropriated Rs. 5000/- being the customer's money and thus committed fraudulent acts and cheated the customer of the bank.

It is revealed during the investigation that, on 03.06.1999 you made a false credit entry of Rs. 25,000/- to the SB a/c No. 1601 maintained by Shri. G. Bhupathi without the support of any valid voucher or paying-in-slip. Subsequently, the account holder Shri Bhupathi had withdrawn the said amount on the same date. Further, it is also observed that the entry made by you as above was neither reflected in the cash scroll nor in the SB sub-day book of the branch on 03.06.1999 and the relevant credit paying-in-slip is not available on record. Hence, it is very clear that the entry of Rs. 25,000/- made by you in the SB a/c ledger sheet of Shri. Bhupathi is a fraudulent transaction. The hand writing in the ledger sheet of SB a/c No. 1601 for the false credit entry of Rs. 25,000/- was yours only and the subsequent withdrawals in the said account were also checked and passed by you.

During the absence of Branch Manager between the last week of May and first week of July 1999, Shri. B. V. Poojary, Asst. Branch Manager, was in charge of the branch and you were supervising the operations of SB, Current and Overdraft accounts and you were also maintaining the officer's cash scroll. It is observed that the extraction of balancing of SVB a/cs was not done on second Friday of June 99 i.e., on 11.06.1999, but was done on 18.06.1999. In order to suppress your fraudulent acts and the above said fraudulent entry of Rs. 25,000/- in the SB a/c No. 1601 on 03.06.1999, you had obtained a self cheque bearing No., 0089341 for Rs. 25,000/- from Shri. M.T. Range Gowda, a customer of the bank maintaining SB a/c No. 3695 on 18.06.1999. Shri. Bhupathi had prepared a credit paying-in-slip for the said amount of Rs. 25,000/- for credit of the proceeds of the above cheque No. 2289341 to his SB a/c No. 1601 on 18.06.1999. The said amount was withdrawn from SB a/c No. 3695 and credited to the SB a/c No. 1601 of Shri. Bhupathi as on the said date. This paying-in-slip to SB a/c No. 1601 of Shri. Bhupathi was not entered in the ledger sheet of his said account, but recorded in the cash scroll, SB sub-day book etc. From the above transactions, it is revealed that the motive behind the said transaction was to suppress the effect of the false credit entry of Rs. 25,000/- made on 3.6.1999. From your above acts, it is construed that you have committed fraudulent acts to derive pecuniary benefit for yourself.

Smt. Puttamma, an illiterate depositor maintaining SB a/c No. 2037 at Doddamagge Branch had remitted an amount of Rs. 10,000/- to her SB a/c on 28.5.99. It is reported that, on 29.5.99, you had withdrawn the amount of

Rs. 10,000/- from her said account by forging her left hand thumb impression in the loose cheque No. 224966. The said loose cheque was written by you in your own handwriting and was also passed by you. The Left Hand Thumb Impression of Smt. Puttamma, on the loose cheque in question, does not tally with her Left Hand thumb impression in the specimen signature card held by the branch. The cash handling clerk, on the said day Shri. N. Shivaramu, code No. 10375, vide his written statement dt. 6.7.99 has confirmed the fact that the payment of cash of Rs. 10,000/- was made directly to you. By your above acts, you have cheated the customer and committed fraud for personal gain.

Shri. Malaiah, a customer of the branch has availed a production loan of Rs. 25,000/- (A/c No. 25/98), for raising tobacco crops during 1997-98. He is maintaining SBV a/c No. 624 at Doddamagge Branch. As per the arrangement made with the Tobacco Boards, the sale proceeds of tobacco was sent to the branch directly by the Tobacco Board and accordingly the branch had received a total amount of Rs. 36,359.40 to the credit of Shri. Malaiah's SB a/c No. 624. On 1.2.99 Malaiah's wanted to withdraw a sum of Rs. 21,000/- from his said SB a/c and credit the same to his production Loan a/c No. 25/98. You had issued a loose cheque bearing No. 223639 to the customer on 1.2.99 and obtained his signature on both the sides of the cheque for withdrawal of Rs. 21,000/- and informed him that the amount would be directly credited to his production loan account. However, it is observed that you had neither handed over the amount to Shri. Malaiah nor credited the same to his production loan a/c No. 25/98. It is also observed on verification of the relative cheque that, the date of the cheque was altered and the drawer's authentication for the alteration in daze was not obtained. The cash handling clerk on the said day Shri. N. Basaye Gowda, [code No. 9458], in his letter dt. 13.7.99 had mentioned that the amount of Rs. 21,000/- drawn from the account of Shri. Malaiah was handed over to you 01.02.1999.

In this Bank In this regard the customer, Shri. Malaiah has also lodged a complaint vide his letter dated 10.7.1999. By your above said acts you have cheated the customer for your personal benefit, committed fraud and misappropriated customer's money.

It is reported that, Shri. M.K. Ranganath, who is maintaining SB a/c No. 2111 at Doddamagge Branch had deposited an amount of Rs. 5000/- in his SB a/c paying-in-slip to the customer in respect of the above deposit affixing the case received seal of the branchy and duly putting your signature for having received the amount of Rs. 5,000/- on 4.5.99. However, the relevant pass book, cash scroll and SB Sub-day book for 4.5.99 do not reveal the said transaction. On verification, it is also revealed that no such voucher/paying-in-slip was prepared and entered in the SB a/c ledger sheet of Shri M.K. Ranganath. it is also

revealed that, in order to suppress your above fraudulent acts and not to give scope for any suspicion, on 18.5.99 you have made a fraudulent credit entry for Rs. 5,000/- in the SB a/c No. 2111 of Shri M.K. Ranganath. The said fraudulent entry in the ledger sheet of the Said SB A/c was made by you in your own handwriting. The fraudulent entry of Rs. 5000/- entered in the relevant pass book of Shri. M.K Ranganath was also made by you only. However, the said entry raised you on 18.5.99 was not found in the cash scroll and SB Sub-day book as on the said date, except the entry made in the SB ledger sheet of SB a/c No. 2111. It is further observed that the said entry was checked and initiated by you only. By your above said acts, you have defrauded the bank and cheated the depositor. Actuated by the malafides, you have committed fraud in the SB a/c No. 172 of Shri. Hanumantha Reddy by fraudulently withdrawing Rs. 12,000/- from his SB a/c No. 172 maintained at Doddamagge Branch. On 3.4.99, you have fraudulently withdrawn Rs. 12,000/- from the SB a/c No. 172 of Shri. Hanumantha Reddy by loose cheque No. 221294. The said entry in the ledger sheet of the SBV a/c No. 172 was made by you and the transaction was also checked by you in the ledger sheet. The said entry of Rs. 12,000/- was also recorded in the token register, cash scroll and SB Sub-day book. On 8.4.99, you have prepared a cash paying-in-slip for Rs. 2000/- and remitted Rs. 2000/- to the credit of SB a/c No. 172. On the same day, you have made a false credit entry of Rs. 10,000/- to the said account without the support of a valid credit paying-in-slip. This fraudulent credit entry of Rs. 10,000/- made by you on 8.4.99 to the account of Shri. Hanumantha Reddy was not reflected in the cash scroll and SB Sub-day book as on the said date. It is also observed that the fraudulent withdrawal of Rs. 12,000/- on 3.4.99 and the fraudulent credit entry of Rs. 10,000/- on 8.4.99 were Written by you in the relative ledger sheet of SBV a/c No. 172 in your own handwriting. It is amply clear that to camouflage your fraudulent acts of withdrawal of cash of Rs. 12,000/- on 3.4.99, you had deposited Rs. 2000/- on 8.4.99 and made a fraudulent credit entry of Rs. 10,000/- on the said day in the SB a/c No. 172 of Shri. Hanumantha Reddy. From your above acts, it is evident that you have committed fraudulent acts by withdrawing Rs. 12,000/- from the SBV a/c No. 172 of Shri. Hanumantha Reddy on 3.4.99 and making a false credit entry of Rs. 10,000/- in the said account on 8.4.99.

By your various acts as narrated above, It is evident that you have committed fraud and misappropriation in various deposit accounts of the customers at Doddamagge branch, thereby cheating the customers and exposing the bank to financial loss, which constitute gross misconduct under the provisions of Bipartite Settlement, 1966.

The Bank therefore charges you as under:

“Your acts of fraud and misappropriation in the deposit accounts of the customers as narrated from (1) to (6) above amount to acts prejudicial to the

interest of the bank, which constitute gross-misconduct under sub-clause(j) of clause 19.5 of Chapter XIX of the Bipartite Settlement, 1966.”

You are, therefore, required to submit your written statement setting forth your defence, if any, in triplicate to the undersigned within 7 days of receipt of this charge sheet and show-cause as to why appropriate disciplinary action should not be taken against you, failing which it will be deemed that you have no statement of defence to submit and the matter will be proceeded with accordingly.

Sd/-
(K. Amarnath Shetty)
Deputy General Manager
(Disciplinary Authority)”

on reply of the I Party denying the charges as false and baseless the Disciplinary Authority appointing Sh. K Venkataramanayya as Enquiry Officer and Sh. B Narasimha Achary as Presenting Officer ordered him to face the Domestic Enquiry. The Enquiry Officer while securing the presence of the CSE who appeared along with Sh. Suresh Kamath, Special Assistant as Defence Representative after observing the formalities of preliminary hearing receiving the evidence of Sh. M Vasanth Kumar Shetty, Manager, Regional Office, Hassan; Sh. A U Poojary, Assistant Branch Manager, Doddamagge Branch; Sh. B N Shivasubramanya, Branch Manager, Doddamagge Branch, Sh. A Basave Gowda, Clerk, Doddamagge Branch and Sh. N Shivaramu, Clerk, Doddamagge Branch as MW 1 to 5 and exhibiting Certified copies of the investigation report dated 16.07.1999; SB Account opening form pertaining to SB Account No. 4392 of Smt. Saroja; loose cheque no. 224875 for Rs. 6800.00 dated 24.05.1999; abstract copy of pass book pertaining to SB Account No. 4392; kedger extract pertaining to SB Account No. 4392; token register as on 24.05.1999; cashier's cash scroll as on 24.05.1999; Officer's Cash scroll as on 24.05.1999; SB sub-day book as on 24.05.1999; compliant given by Smt. Saroja with regard to fraudulent withdrawal of Rs. 5000.00; specimen signature card in respect of SB Account No. 1601 of Sh. G Bhupavathi; token register as on 03.06.1999; Officer cash scroll as on 03.06.1999; cashier's cash scroll as on 18.06.1999; SB ledger sheet extract of SB A/c 1601; SB Account sub-day as on 03.06.1999; SB ledger extract of SB a/c 3695 of M T Range Gowda; SB account deposit balancing register extract; SB sub-day as on 18.06.1999; SB Account No. 2037 of Smt. Puttamma; SB account pass book pertaining to SB a/c no. 2037; complaint letter of Smt. Puttamma; sheet showing the LHIT of Smt. Puttamma; ledger extract pertaining to SB a/c No. 2037 of Smt. Puttamma; token register as on 29.05.1999; extract copy of Cashier's cash scroll as on 29.05.1999; extract copy of officer's cash scroll as on 29.05.1999; SB sub-day as on 29.05.1999; written statement of Sh. N Shivaramu dated 06.07.1999; loose cheque No. 223639 for Rs. 21000.00 dated 01.02.1999; SB account ledger sheet pertaining to SB a/c

624; extract copy of SB pass book pertaining to account No. 624 of Sh. Mallaiah; Token register as on 01.02.1999; cashier's cash scroll as on 01.02.1999; officer's cash scroll as on 01.02.1999; SB sub-day book as on 01.02.1999; complaint letter dated 12.07.1999 given by Sh. Mallaiah; written statement of Sh. A Basave Gowda dated 13.07.1999; SB account opening card pertaining to SB a/c No. 2111; specimen signature card of SB a/c No. 2111; complaint letter received on 15.07.1999 from Sh. MV Sampath; extract of officer's cash scroll as on 04.05.1999; extract of cashier's cash scroll as on 04.05.1999; SB account ledger extract pertaining to a/c No. 2111; SB sub-day book extract as on 04.05.1999; cashier cash scroll as on 03.04.1999; officer's cash scroll as on 03.04.1999; extract of SB sub-day book (debit Slip) as on 03.04.1999; token register (folio 120 and 121); SB sub-day (debit slip) as on 08.04.1999; officer's cash scroll as on 08.04.1999; cashier's cash scroll as on 08.04.1999; extract of SB sub-day book (credit slip) as on 08.04.1999; ledged extract of SB account No. 172 of Sh. Hanumantha Reddy; pay in slip of SB account No. 172 dated 08.04.1999; SB account pay in sip dated 08.04.1999; complaint letter of Sh. Hanumantha Reddy received on 13.07.1999; pass book in respect of SB a/c No. 172; complaint of Sh. K Venakata Gowda dated 09.07.1999; extract of Attendance Register for the months of April, May and June 1999; compliant of Sh. M V Sampath dated 15.07.1999; reply of CSE to the charge sheet dated 09.12.1993; report of Assistant Manager, Doddamagge Branch dated 02.07.1999; report of the Assistant Manager, Doddamagge branch to AGM, RO, Hassan; letter dated 15.07.1999 from Branch Manager to AGM, RO, Hassan; letter dated 12.07.1999 from branch Manager, Doddamagge Branch to AGM, RO, Hassan; letter dated 12.07.1999 from Branch manager Doddamagge Branch to Taluk, Sanchalak, Karnataka Dalitha Sanghasha Samithi, letter dated 12.07.1999 from Karnataka Dalitha Sangharsha Samithi to Branch Manager, Doddamagge; Particulars of overdrawings dated 13.07.1999 of SB a/c Nos. 172, 1601, 2111, extract of Job rotation from 01.02.1997 to 31.07.1997 and Registered AD dated 11.01.2000 MEx 1 to 73 and the statement of the CSE It Party concluding the enquiry receiving the written briefs of both the sides submitted his enquiry report dated 09.03.2000 all charges are being proved. Then the Disciplinary Authority while affording the opportunity of hearing imposed the punishment of Dismissal from Service and on appeal the Appellate Authority as well giving an opportunity of hearing confirmed the order of the Disciplinary Authority and dismissed the appeal, then the I Party approached the ALC(C), Hubli and as he submitted FOC dated 08.03.2001 it resulted in this reference.

5. The I Party in his claim statement asserted that the Domestic Enquiry was in violation of the principles of natural justice and that the finding of the Enquiry Officer

on all the six charges is baseless since the concerned complainants were not at all examined and testified the alleged allegations made by them in their respective alleged complaints and even otherwise the punishment imposed is disproportionate etc. INTERALIA, the II Party in the counter statement contending that since the I Party prevented the complainants from appearing before the Enquiry Officer they could not be examined but inspite of it from documentary evidence the charges levelled against the CSE could be appreciated the Enquiry Officer while appreciating the charges with the documentary evidence placed before him coupled with the evidence of the bank officials has rightly come to the conclusion of charges being established and for such misconduct he was not eligible to be continued in the service of the Bank as such the punishment of dismissal is also proportionate supported the Domestic Enquiry as fair and proper, the enquiry finding as based on the evidence of the Bank officials and the documents produced in the enquiry and punishment imposed is proportionate and thus supported all of them.

6. My learned predecessor while raising a Preliminary Issue as to

“Whether the Domestic Enquiry held against the I Party by the II Party is fair and proper?”

after receiving the evidence adduced by both the sides and hearing the arguments of the learned advocates by order dated 04.07.2007 held the Domestic Enquiry being fair and proper and the learned advocates appearing for both the sides addressed their arguments on merits, the points that now arises for my consideration are :

Point No. 1: Whether the finding of the Enquiry Officer all the six changes are established is perverse necessitating the interference of this tribunal?

Point No. 2: If not, whether the punishment of dismissal imposed is disproportionate?

Point No. 3: What order/award?

7. On appreciation of the pleadings, oral and documentary evidence placed on record in the Domestic Enquiry with the report of the Enquiry Officer and the arguments put forward by the learned advocates for both the sides my finding on Point No. 1 is in the Affirmative, point No. 2 as does not survive for consideration and Point No. 3 as per final order for the following

REASONS

8. **Point No. 1:** The main contention of the I Party being in the absence of examining the six complainants whose complaints are exhibited as MEx 10, 27, 37, 42, 61 and 63 without their examination he having been deprived of testifying their version and even whether they had filed such complaints the finding of the Enquiry Officer all these

charges are established is perverse, during the course of arguments when the learned advocate appearing for the II Party was posed a question whether such charges based on the alleged complaints of the customers without their examination can be accepted he fairly conceded that charges under 1, 3, 4, 5 may not be accepted but for charges 2 and 6 as customers are not losers their examination was not necessary and from documentary evidence they can be appreciated as such as far as the charges 2 and 6 are concerned there is no reasons to say the finding of the Enquiry Officer being perverse.

9. As per Charge No. 1 Smt. Saroja, SB Account holder bearing No. 4392 lodged a complaint alleging that on 24.05.1999 she came to the Doddamagge branch for the purpose of withdrawal of Rs. 1800.00 from her SB Account and I Party issued her a loose cheque bearing No. 224875 and obtained her signature on the said cheque and paid her only Rs. 1800.00 and now it has come to her notice that he altered the figure of amount of Rs. 1800.00 to Rs. 6800.00 and in order to suppress withdrawal of Rs. 6800.00 he entered in her pass book withdrawal as Rs. 1800.00 only and subsequently when she came to branch on 28.06.1999 for the purpose of conversion of Rs. 5000.00 lying in her SB Account to term deposit account it was revealed to her that the actual balance in her SB account ledger being only Rs. 87.00 as the amount withdrawn on 24.05.1999 was written as Rs. 6800.00. When according to the alleged complaint filed by Smt. Saroja she approached the I Party for withdrawal of Rs. 1800.00 and he/I Party who issued a loose cheque obtained her signature and gave her Rs. 1800.00 and subsequently when she came to the branch to convert Rs. 5000.00 from her SB Account on 28.06.1999 she learned the I Party writing withdrawal as Rs. 6800.00 same being entered in the ledger she has been deprived of Rs. 5000.00 it is for her to testify as to such allegation and no amount of other evidence could fill in the same. If at all the customer had approached the I Party for withdrawal of Rs. 1800.00 only and he who issued a loose cheque and after obtaining her signature incorporated the amount of withdrawal as Rs. 6800.00 and gave her only Rs. 1800.00 it is only she who could speak about it and any amount of the evidence like that of MW1 the investigating officer that she has confirmed the allegations made in the complaint before him etc., could not have been placed reliance by the Enquiry Officer. Therefore, in my considered view the finding of the Enquiry Officer charge No. 1 is established is baseless and perverse.

10. As per charge No. 2 on 03.06.1999 the I Party gave a false credit of Rs. 25000.00 without preparing any pay in slip to the SB Account of Sh. G Bhupathi which entry is not available on any other records or corresponding ledger and when MW1 enquired the SB account holder Sh. G Bhupathi in the presence of the Branch Manager he stated that I Party had owed certain amount to him and in order to make good the same he may have made this false entry. In

respect of this version of MW1 and the Branch Manager in the absence of Sh. G. Bhupathi the I Party had owed him money and in order to make the same good he must have made this entry in his SB account ledger could not have been accepted by the Enquiry Officer. Therefore, in my considered view the finding of the Enquiry Officer charge No. 2 is established is baseless and perverse.

11. As per Charge No. 3 the I Party had withdrawn a sum of Rs. 10000.00 on 29.05.1999 from the SB Account of Smt. Puttamma bearing No. 2037 by forging her Left Thumb Impression (LTM) on a loose cheque and she made a complaint on 05.07.1999 and on verification of the LTM with that of her specimen signature it did not tally as such he had withdrawn a sum of Rs. 10000.00 from the SB Account of Smt. Puttamma by forging her Left Thumb Impression on the loose cheque. Only because the Thumb Impression on the cheque and the specimen signature of the customer did not tally it is not possible to jump to a conclusion that I Party had withdrawn the amount in question by forging left thumb impression of the customer on a loose cheque. It is for the customer to testify that though she did not come to the Bank on 29.05.1999 and obtaining a loose cheque presented it for withdrawal of Rs. 10000.00. In the absence of the evidence of the account holder in such type of allegation it is not possible to hold the charges as proved on any amount of other evidence of the bank officials. Therefore, in my considered view the finding of the Enquiry Officer charge No. 3 is established is baseless and perverse.

12. As per Charge No. 4 one Sh. Malaiah had availed a production loan of Rs. 25000.00 under Account No. 25/98 for raising Tobacco Crop during 1997-1998 and had also maintained an SB Account bearing No. 624 and as per the arrangement made by him with the Tobacco Board the sale proceeds of Tobacco used to be sent to the Doddamagge branch directly by the Tobacco Board and accordingly the Branch had received a total sum of Rs. 36359.40 paise to his credit and on 01.02.1999 he came to the branch to withdrawn a sum of Rs. 21000.00 from his SB Account and to credit the same his production loan account No. 25/98 and I Party while issuing a loose cheque bearing No. 223639 to him obtained his signature on both the sides of the cheque for withdrawal of Rs. 21000.00 and informed him that the said amount will be directly credited to his loan account but he failed to do so. As far as this charge is concerned unless the customer testifies by examining himself it is not possible to accept the allegations made against the I Party on any amount of the evidence of the Bank Officials. Therefore, in my considered view the finding of the Enquiry Officer charge No. 4 is established is baseless and perverse.

13. As per Charge No. 5 Sh. M. K. Ranganath who had SB Account at Doddamagge branch bearing No. 2111 gave a complaint alleging that he came to the branch on

04.05.1999 to deposit an amount of Rs. 5000.00 in his SB Account and I Party who received the said amount issued a counterfoil of the SB Account pay in slip to him affixing the cash received seal of the Branch and duly putting his signature for having received the amount of Rs. 5000.00 and on verification it is found that no such voucher pay in slip was prepared and entered in the SB Account ledger sheet and thereby he defrauded that customer by an amount of Rs. 5000.00. Unless the complainant testified himself to these allegations any other evidence of bank officials that he confirmed before them these allegations is of no avail to the II Party to prove this charge as such the finding of the Enquiry Officer this charge is proved without the evidence of Sh. N. K. Ranganath in my opinion is baseless and perverse.

14. As per Charge No. 6 one Sh. Hanumantha Reddy had SB Account No. 172 at Doddamagge branch and that I Party on 03.04.1999 through a loose cheque withdrew a sum of Rs. 12000.00 from that account and made entry in the ledger sheet, token register, cash scroll and SB sub-day book and on 08.04.1999 remitted a sum of Rs. 2000.00 through cash pay in slip to that account and also made a false credit entry of Rs. 10000.00 to the said account without a valid credit pay in slip. Unless the customer testified himself that he did not withdraw a sum of Rs. 12000.00 on 03.04.1999 taking a loose cheque from the Branch withdrawal of that amount by the I Party cannot be inferred as such in the absence of his evidence the Enquiry Officer holding this charge as established as well in my opinion is baseless and perverse.

15. In view of my detailed discussion made above in this case the evidence of complaints on all the six charges was very much essential and in the absence of their evidence the charges incorporated in them could not have been believed. Ofcourse there is a observation by the Enquiry Officer based on the statement by the Presenting Officer that I Party was preventing the complainants from appearing before the Enquiry Officer but in the absence of any evidence to corroborate or support the statement made by the Presenting Officer such statement could not have been believed by the Enquiry Officer. Even otherwise when the party making charge i.e. the management failed to secure the presence of customers alleged to have made such complaints the Enquiry Officer ought not to have accepted such charges made against the I Party. Hence, I am of the considered view the finding of the Enquiry Officer all the six changes are established are baseless and perverse and accordingly I answer this issue.

16. **Point No. 2:** In view of my finding on Point No. 1 this issue does not survive for consideration.

17. **Point No. 3:** In view of my finding on Point No. 1 since the I Party has been dismissed from service on an enquiry report which is found baseless and perverse the I Party is entitle for reinstatement with full backwages,

continuity of service and all other consequential benefits that he would have received in the absence of the impugned order of Dismissal. In the result, I pass the following

ORDER

The reference is allowed holding that the action of the management of Vijaya Bank dismissing Sh. Shankare Gowda from service is not legal and justified and that he is entitled for reinstatement with full backwages, continuity of service and other consequential benefits that he would have received in the absence of the impugned order of dismissal.

(Directed to UDC, transcribed by him, corrected and signed by me on 3rd February 2015)

S. N. NAVALGUND, Presiding Officer

नई दिल्ली, 19 मई, 2015

का.आ. 1067.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बैंगलोर के पंचाट (संदर्भ सं. 66/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 14.05.2015 को प्राप्त हुआ था।

[सं एल-12012/149/2002-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th May, 2015

S.O. 1067.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 66/2002) of the Cent. Govt. Indus. Tribunal-cum-Labour Court - Bangalore as shown in the Annexure, in the industrial dispute between the management of Syndicate Bank and their workmen, received by the Central Government on 14/05/2015.

[No. L-12012/149/2002-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, YESWANTHPUR, BANGALORE-560 022

DATED : 1st JANUARY 2015

Present :

Shri S. N. Navalgund, Presiding Officer

C R No. 66/2002

I Party

Sh. R. Shanmukhappa,
Telegadi mani, Mudgal,
Raichur-584125.
Karnataka

II Party

The Assistant General Manager,
Syndicate Bank,
Zonal Office, P B No. 9947,
Gandhinagar,
Bangalore - 560009.

Appearances :

I Party : Shri A. J. Srinivasan,
Advocate

II Party : Sh. Ramesh Upadhyaya,
Advocate

AWARD

1. The Central Government vide order No. L-12012/149/2002-IR(B-I) dated 11.12.2002 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made this reference for adjudication with the following schedule:

SCHEDULE

“Whether the action of the management of Syndicate Bank, Zonal Office, Gandhinagar, Bangalore is justified in imposing the punishment of dismissal from service in respect of Shri R. Shanmukhappa, Ex-Clerk, Syndicate Bank, Hutti Branch, Lingasugur Taluk, Raichur Dist. Karnataka State w.e.f. 31.8.1999? If not, what relief the workman is entitled?”

2. On receipt of the reference while registering it in C R 66/2002 when notices were issued to both the parties, I Party entered his appearance through Sh. A J Srinivasan, advocate and II Party through Sh. Ramesh Udadhya, advocate but in spite of providing sufficient opportunity both since did not care to file either claim statement or counter statement my learned predecessor by award dated 13.12.2004 had rejected the reference for non prosecution and after its gazette notification and service on the I party since I Party came with an application in Misc. 01/2005 under Section 11 of ID Act to recall the Award my learned predecessor after causing notice of the same to the management and giving opportunity to file objection, recording the evidence of the I Party after hearing arguments addressed by the learned advocates by order dated 29.07.2005 allowed the said application and set aside the award dated 13.12.2004 and taken the reference in its original number the I Party filed his claim statement on 15.12.2005 and II Party appeared through Sh. Ramesh Upadhyaya, Advocate and filed their counter statement on 12.05.2006.

3. The brief facts that leads to this reference and Award may be stated as under.

4. The I Party who was appointed as clerk in the II Party Management and was temporarily was entrusted with the duties of Special Assistant during the period 09.07.1987 to 06.07.1998 was issued with charge sheet dated 14.10.1998 as under:

“That you were working as a clerk at Mudgal Branch during the period between 09.07.1987 and 06.07.1998

during which period you were also temporarily entrusted duties of a Special Assistant from time to time. While functioning in your position as such, it is alleged against you:

a) that you did not account for remittance of Rs. 5,000/- each deposited by Sri Nagappa and Smt. Subhadramma, towards their respective SB Accounts at the branch on the date on which the remittances were made.

b) that a cheque issued by you for Rs. 50,000/- favouring KSFC drawn on your SB Account at the branch was dishonoured for want of funds.

The following circumstances appear on record in respect of the above transactions:

I. In the matter of Rs. 5,000/- deposited by Sri Nagappa:

That Sri Nagappa, S/o Gundappa Badiger is maintaining SB Account No. 13418 with the branch since 28.1.1993. That in the pass book issued for his account a credit entry of Rs. 5,000/- is appearing on 6.1.1998. The date "6.1.1998" and the entry as "By Cash" was made and initiated by you. However, the branch records do not indicate of any such credit received for the said amount on 6.1.1998.

That on 27.4.98 the depositor withdrew Rs. 8,000/- in cash from his SB Account through a withdrawn slip No. 414130. The withdrawal slip was entered, checked and passed for payment by you. The opening balance in the account on that date was Rs. 3,608/- only. However, the debit entry in the ledger folio was shown as Rs. 3,000/- instead of Rs. 8,000/- and the balance was shown as Rs. 608/-. The entry in the pass book was made and initiated by you.

That on 30.04.1998, Rs. 5000/- was credited to the account by cash. The credit slip is in your handwriting. The credit entry was made, checked and initiated by you. This entry was inserted in the ledger folio before the debit entry of Rs. 3,000/- dt. 27.04.1998 and the debit entry of Rs. 3,000/- dt. 27.4.98 is found altered to Rs. 8,000/-.

The above circumstances indicate that you have misappropriated Rs. 5,000/- deposited by the customer on 6.1.98 towards his SB Account and when there was no sufficient balance in the account, you passed for payment a withdrawal slip for Rs. 8,000/- on 27.4.98. You falsified the bank records by entering the withdrawal slip as for Rs. 3,000/- Later you reimbursed the amount on 30.4.98 by crediting to SB Account and made alterations in the SB ledger folio.

The above acts on your part constitute gross misconduct within the meaning of clause No. 19.5 of Bipartite Settlement. We therefore charge you with gross misconduct of doing acts prejudicial to the interest of the Bank vide clause No. 19.5(j) of the Bipartite Settlement.

II. In the matter of Rs. 5,000/- deposited by Smt. Subhadramma:

That Smt. Subhadramma W/o Sri Guruswamy Iligar, is maintain SB Account No. 15070 with the branch since 24.5.1996.

That in the pass book issued to the customer, the following transactions are appearing:

- i) a credit entry of Rs. 5,000/- as on "9.11.96" and particulars as "By cash".
- ii) a debit entry of Rs. 5,000/- as on "17.12.96" and particulars as "To self".
- iii) a credit entry of Rs. 10,400/- as on "16.8.97" and particulars as "By cash".

The above entries were made and initiated by you. However the branch records do not indicate of any such credits and debit to the said account on the mentioned dates.

That the depositor has informed that she had deposited Rs. 5,000/- to her SB a/c on 9.11.96, withdrew Rs. 5,000/- on 17.12.96 but denied having deposited Rs. 10,400/- on 16.8.1997.

The above circumstances indicate that you misappropriated Rs. 5,000/- deposited by the customer on 9.11.96 towards her SB Account and reimbursed the amount on 17.12.1996 by paying her cash, made a fictitious credit entry of Rs. 10,400/- in her Pass Book with ulterior motive and in the process you falsified the Bank's records.

The above acts on your part constitute gross misconduct within the meaning of clause No. 19.5 of Bipartite Settlement.

We therefore, charge you with gross misconduct of doing acts prejudicial to the interest of the Bank vide clause No. 19.5(j) of the Bipartite Settlement.

III. In the matter of returning of cheque for Rs. 50,000/-

That a chargesheet cum show cause notice No. CGS/ BNG/96/88 dt. 23.7.96 was issued to you by the Disciplinary Authority for the alleged misconduct of issuing cheque No. 0525404 dt. 5.2.1996 for Rs. 10,000/- favouring Sri Veerabhadra Shetty which when presented through clearing was returned unpaid for want of sufficient funds in your SB Account No. 11211 at Mudgal Branch. The charge was held as proved during the departmental enquiry. During the Personal Hearing given by the Disciplinary Authority, you had assured that you will not given scope for such an act in future. Hence the matter was viewed leniently and you were "warned" by the Disciplinary Authority.

That despite the above, your cheque No. 625577 dt. 20.12.97 for Rs. 50,000/- favouring KSFC Raichur on your

SB Account No. 7626 at the branch was dishonoured on 1.1.1998 for want of funds, contravening the guidelines issued vide HO Cir. No. 90/94/BC dt. 16.4.1994.

Your above acts constitute gross misconduct within the meaning of clause No. 19.5 of the Bipartite Settlement.

We therefore charge you with gross misconduct of doing acts prejudicial to the interest of the Bank vide clause No. 19.5(j) of the Bipartite Settlement.

Pending such enquiry/initiation of such enquiry into the above serious allegations, you are suspended from the services of the Bank with immediate effect in terms of clause No. 19.12(b) of the Bipartite Settlement.

During the period of Suspension, you will be paid Subsistence Allowance at the following rates:

A) Where the enquiry is departmental by the Bank:

1) Where the investigation is not entrusted to or taken up by an outside agency:

- a) for the first three months of suspension, 1/3rd of the pay and allowances which you would have got but for the suspension;
- b) for the period of Suspension, if any, thereafter, 1/2 of the Pay and Allowances which you would have got but for the suspension, provided that after one year of suspension, fully pay and allowances will be paid if the enquiry is not delayed for the reasons attributable to you or any of your representatives.

2) Where the investigation is done by an outside agency and such investigation is followed by a departmental enquiry by the Bank and by prosecution:

- a) For the first three months of Suspension, 1/3rd of the Pay and Allowances which you would have got but for the Suspension;
- b) For the period of suspension, if any, thereafter, 1/2 of the Pay and Allowances which you would have got but for the suspension.

Provided that, full pay and allowances will be payable after six months from the date of receipt of report of the investigation agency that, it has come to the conclusion not to prosecute the employee or one year after the date of suspension, whichever is later;

AND provided further that the enquiry is not delayed for reasons attributable to you or any of your representatives.

B) Where the enquiry is held by an outside agency including a trial in a criminal court:

- a) for the first six months of suspension 1/3rd of the Pay and Allowances which you would have got, but for Suspension;

- b) for the period of Suspension, if any, thereafter, 1/2 of the Pay and Allowances which you would have got but for the Suspension, until the enquiry is over.

You are required to furnish your postal address forthwith for the purpose of future communication with you. You should not enter the branch premises during the period of suspension except for the purpose of operating your own account. Further, for that purpose, you should obtain specific permission of the Branch Manager, by sending a note with the Attender at the cabin. If it is found that you are misusing the above facility, in any way, your account is liable to be closed and the balance sent to you by a Pay Order.

We advise you to submit your written statement of defence, if any, within 15 days from the date of receipt of this Chargesheet cum Suspension Order.

Yours faithfully,

Sd/-
Asst. General Manager.”

and appointed Sh. K P Acharya, Chief Officer(P) as Enquiry Officer and Sh. M J Sudhakara as Management Representative and initiated the Domestic Enquiry, the Enquiry Officer while securing the presence of the I Party and the Management Representative observing the formalities of preliminary hearing and receiving the evidence of Sh. M Prabhakar, Chief Officer, Vigilance Office and Sh. K K Somaiah, Manager, Yedrami Branch as MW 1 and MW 2 for the management and got exhibiting MEx-1 to MEx-30, as the CSE/I Party did not appear before the Enquiry Officer, the Enquiry Officer closed the enquiry and submitted his enquiry report dated 28.06.1999 holding him guilty of the charges and Disciplinary Authority after affording opportunity of hearing passed the order of Dismissal from Service and on appeal by the I Party the Appellate Authority affording opportunity of hearing confirmed the order of the Disciplinary Authority by his order dated 20.12.1999 and then the I party approached the ALC(C), Bellary and on his submission of FOC report dated 19.08.2002 this reference came to be made for adjudication.

5. The I Party in his claim statement asserts that he who was appointed as Clerk though worked excellently, unblemishedly, honestly and diligently the management issued him a charge sheet and without affording him an opportunity to take the assistance of Defence Representative hurriedly closed the enquiry and dismissed him from service and on his appeal to the Disciplinary Authority and the Appellate Authority without considering his request and without giving proper and valid reasons dismissed his appeal and that enquiry finding being biased

is perverse and even otherwise the punishment of Dismissal imposed for such trivial alleged misconduct is disproportionate etc. INTER ALIA, in the counter statement filed by the II Party it is contended that the I Party was entrusted with the work of Special Assistant at the relevant point of time misappropriated the amounts of the customers and therefore he was issued with the charge sheet and that the Domestic Enquiry being conducted after affording all reasonable and fair opportunity finding of the Enquiry Officer is being based on the material placed before him, the same cannot be held as perverse and as the I Party did not avail the services of Defence Representative though was afforded with several opportunities and as he was not found fit to continue in the service being dismissed from service the action of the management is just and proper.

6. After conclusion of the pleadings by raising a Preliminary Issue as to

“Whether the Domestic Enquiry held against the I Party by the II Party is fair and proper?”,

on the consent of I Party counsel marking the enquiry file segregated into 11 heads as Ex M-1(DE) to Ex M-11(DE) the detailed description of which are narrated in the annexure hearing the arguments addressed by both the sides, the Preliminary Issue being held in the Affirmative holding that the Domestic Enquiry held against the I Party by the II Party being fair and proper vide order dated 16.07.2010 and then receiving the Evidence of I party on the point of victimization and being not gainfully employed, the arguments addressed by both the sides were heard on merits, the point that now remain for my consideration are:

Point No. 1 : Whether the I party is able to demonstrate the finding of the Enquiry Officer being perverse necessitating the interference of this Tribunal?

Point No. 2 : If not, whether the punishment of Dismissal imposed against the I party is disproportionate to the proved misconduct?

Point No. 3 : What Order/Award ?

7. It is borne out from the proceedings of the Enquiry Officer that on behalf of the management Sh. Prabhakar M, Chief Officer, Vigilance Unit, Bangalore and Sh. K K Somaiah, Manager, Yedrami Branch formerly working as Manager, Mudgal Branch being examined as MW 1 and 2 and MEx 1 to MEx-30 the detailed description of which are narrated in the annexure got exhibited and I party left the said evidence unchallenged either by their cross-examination or leading any rebuttal evidence. Further as submitted by the learned advocate appearing for the II party in the written statement submitted by the I Party dated 19.06.1998 exhibited as MEx-29 he has practically admitted both the charges levelled against him as such the Enquiry Officer did not commit any error in answering the

charges being proved. Moreover the learned advocate appearing for the I Party failed to demonstrate how these findings of the Enquiry Officer could be termed or stated as baseless or perverse. Under the circumstances, I arrive at conclusion of answering the Point No.1 in the Negative.

8. Since as per the finding on Charge No. 1 the I Party who received Rs. 5,000.00 each from Sh. Nagappa and Smt. Subhadramma towards their respective SB Accounts and failed to account the same in the records of the Bank being a grave misconduct which disentitles him to continue in the bank service absolutely I find no reason to say the Disciplinary Authority deciding him to Dismiss him from Service as disproportionate or excessive to the misconduct proved against him. Accordingly, having arrived at conclusion of answering the Point No. 2 as well in the Negative, I pass the following

ORDER

The Reference is rejected holding that the action of the management of Syndicate Bank, Zonal Office, Gandhinagar, Bangalore is Justified in imposing the punishment of dismissal from service in respect of Shri R. Shanmukhappa, Ex-Clerk, Syndicate Bank, Hutti Branch, Lingasugur Taluk, Raichur Dist. Karnataka State w.e.f. 31.8.1999 and that he is not entitle for any relief.

(Dictated to U D C, transcribed by him, corrected and signed by me on 1st January, 2015)

S. N. NAVALGUND, Presiding Officer

ANNEXURE-I

Witnesses examined on behalf of II Party:

Nil

Witnesses examined on behalf of I Party:

WW 1 - R Shanmukhappa, I Party Workman

Documents exhibited in the Domestic Enquiry:

MEx - 1	:	Certified copy of OG 14, account opening form in respect of SB 13418 of Sri Nagappa
MEx - 2	:	CC of OG 5 of SB 13418 of Sri Nagappa
MEx - 3	:	Ledger sheet No. 0731026 pertaining to SB 13418 of Sri Nagappa
MEx - 4	:	Withdrawal slip 414130 dated 27/4/98 for Rs. 8000/- drawn by Sri Nagappa
MEx - 5	:	Credit Slip OG73 dated 30/4/98 for Rs. 5000/-
MEx - 6	:	Pass Book of SB 13418 of Sri Nagappa
MEx - 7	:	Certified copy of Manager's Scroll dt. 27/4/1998

MEx - 8	:	Certified copy of Manager's Scroll dt. 30/4/1998	MEx - 30	:	Letter dated 16/12/1998 of Sri R Shanmukappa
MEx - 9	:	Certified copy of Manager's Scroll dt. 6/1/1998	Documents exhibited by consent on Domestic Enquiry issue:		
MEx - 10	:	Certified copy of OG 141 in respect to of SB 15070	Ex M - 1	:	Office copy of the charge sheet cum suspension order dated 14.10.1998
MEx - 11	:	Certified copy of OG 5 of SB 15070	Ex M - 2	:	Office copy of the letter dated 22.12.1998
MEx - 12	:	Pas book of SB 15070 of Smt. Subhadramma	Ex M - 3	:	Office copy of letter of appointment of Enquiry Officer dated 27.01.1999
MEx - 13	:	Ledger Sheet No. 0245069 of SB 15070	Ex M - 4	:	Original Enquiry Proceedings dated 22.03.1999 & 23.03.1999
MEx - 14	:	Certified copy of Manager's scroll dt 9/11/96	Ex M - 5	:	Original Enquiry Report dated 28.06.1999 along with appendix of Evidence and list of documents marked in the enquiry
MEx - 15	:	Certified copy of Manager's scroll dt. 17/12/96	Ex M - 6	:	Office copy of the letter dated 13.07.1999
MEx - 16	:	Letter dated 20/6/1998 of Smt. Subhadramma	Ex M - 7	:	Office copy of the letter dated 12.08.1999
MEx - 17	:	Certified copy of OG14 I and OG 5 pertaining to SB account of Smt. Rajeshwari	Ex M - 8	:	Original Personal hearing of Disciplinary Authority dated 27.08.1999
MEx - 18	:	Certified copy of Office Order book page No. 17 of Mudgal branch	Ex M - 9	:	Original Proceedings of the Disciplinary Authority dated 31.08.1999
MEx - 19	:	Certified copy of Attendance Register— January '98 and April '98	Ex M - 10	:	Proceedings of the Appellate Authority
MEx - 20	:	Certified copy of Attendance Register of Nov'96, Dec'96 and August 1997	Ex M - 11	:	Exhibited marked in the enquiry.
MEx - 21	:	Certified copy of subday sheet dated 6/1/1998	नई दिल्ली, 19 मई, 2015		
MEx - 22	:	Certified copy of subday sheet dated 9/11/1996, 17/12/1996 and 16/8/1997	का.आ. 1068. —औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलोर के पंचाट (संदर्भ सं. 13/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.05.2015 को प्राप्त हुआ था।		
MEx - 23	:	Certified copy of subday sheet dt 27/4/1998 to 30/4/1998	[सं. एल-12011/121/2007-आईआर (बी-II)] रवि कुमार, डेस्क अधिकारी		
MEx - 24	:	Certified copy of cheque returning register page 53 for the period from 7/10/97 to 4/2/98	New Delhi, the 19th May, 2015		
MEx - 25	:	Certified copy of SB ledger sheet No. 207567 pertaining to SB 7626 of Sri R Shanmukappa	S.O. 1068. —In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.13/2008) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the		
MEx - 26	:	Certified copy of Manager's scroll dt 16/8/97			
MEx - 27	:	Mudgal Branch letter No. 1804-MDL/ STF/98 dated 17/7/1998			
MEx - 28	:	Statement given by Sri K K Somaiah, Manager, Mudgal Branch			
MEx - 29	:	Statement given by Sri R Shanmukhappa, dated 19/6/98			

management of Syndicate Bank and their workmen, received by the Central Government on 14/05/2015.

[No. L-12011/121/2007- IR (B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, YESWANTHPUR, BANGALORE - 560 022

DATED : 9th February, 2015

Present :

Shri S. N. Navalgund, Presiding Officer

C R No. 13/2008

I Party

The General Secretary,
Syndicate Bank Staff
Association, Anand
Plaza, II Floor,
Near Anand Rao Circle,
BANGALORE - 560 009.

II Party

The Regional Manager,
Syndicate Bank,
Regional Office, Manvi
Building,
No. 144, Neeligin Road,
HUBLI.

Appearances

I Party : **Shri A Srinivasa Alse**
General Secretary

II Party : **Shri Ramesh Upadhyaya**
Advocate

AWARD

1. The Central Government vide Order No. L-12011/121/2007- 1R(B-11) dated 15.02.2008 in exercise of the powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule

SCHEDULE

“Whether, the punishment of compulsory retirement from service with all superannuation benefits imposed on Sri M B Laxmeshwar, clerk of Syndicate Bank is legal and justified? If not, to what relief the workman is entitled to?”

2. On receipt of the reference while registering it in C R 13/2008 when notices were issued to both the parties, I Party entered his appearance through Sh. A Srinivasa Alse, General Secretary, Syndicate Bank Staff Association and filed his claim statement on 10.02.2010 and II Party entered its appearance through Sh. Ramesh Upadhyaya, Advocate and filed counter statement on 19.08.2011.

3. The brief facts leading to this reference and award may be stated as under.

4. Sh. M B Laxmeshwar (hereinafter referred as I Party) while working as Clerk at Laxmeshwar Branch of the Syndicate Bank (hereinafter referred as II Party) was served with charge sheet dated 27.09.2006 as under :

“Charge Sheet

That you are working as Clerk at Laxmeshwar Branch since 19.7.2004. While working as such the following circumstances appear against you in the matter of your frequent absence without leave and irregular attendance.

1. That you are in the habit of absents from duties at frequent intervals without submission of leave application and without sanction of leave from the competent authority and thereby cause great inconvenience to the functioning of the Branch/Bank.

The Competent Authority has treated your following absence as Unauthorised with consequent cut in wages.

Sl.	Period		No. of days
1.	17.05.06	to 31.05.06	15
2.	01.06.06	to 14.06.06	14
3.	16.06.06	to 30.06.06	15
4.	01.07.06	to 31.07.06	31
5.	01.08.06	to 06.09.06	37

Your total unauthorized absence had reached 1344 days as on 6.9.2006.

The above circumstances got to how that you are frequently absents from duties unauthorisedly.

II. That your services are sparingly available to the Bank during the period April 2006 to September 2006 (upto 6.9.2006) and the details of your attendance are as under:

Month	No. of Days
April 2006	13
May 2006	12
June 2006	1
July 2006	Nil
August 2006	Nil
September 2006	Nil (upto 6.9.2006)

The above circumstances go to show that you are highly irregular in attending the office. Your irregular attendance has caused great inconvenience to the functioning of the Bank.

That reference is drawn to following Chargesheets/ Showcause Notices/Chargesheet cum Showcause Notices issued to you for minor misconducts of “Absence without leave” and “Irregular Attendance”.

1. Proceedings No. PRS/BGM/DGM/92/35 dated 28.12.1992 - "WARNING"
2. Proceeding No. PRS(W)/ZOM/DGM/98/5 dated 9.2.1998 - "WARNING"
3. Proceeding No. PRS(W)/DGM/ZOU/99/83 dated 27.10.1999 - "WARNING"
4. Proceedings No. PRS/ROH/RM/1/2006 dated 26.6.2006 - "WARNING"

That inspite of ample opportunities given to you, you continue to violate the leave rules and absented from duties at frequent intervals unauthorisedly.

The above circumstances got to show that you have been absenting from duties unauthorisedly at frequent/regular intervals without submission of leave application and without sanction of leave from the competent authority and violated the leave rules. Your said acts are highly objectionable and amount to misconduct under the provisions of Bipartite Settlement.

In terms of Clause No. 5(f) of Bipartite Settlement dated 10.4.2002 habitual doing of any act which amounts to minor misconduct will become a gross misconduct if the same misconduct is committed on three previous occasions and awarded with punishments. The details furnished in the earlier paras show that the Bank initiated Disciplinary Authority against you for the minor misconducts of "Absence without leave" and "Irregular Attendance" on above occasions and awarded punishments.

I. Therefore for your absence without leave (as referred above), you are charged with the commission of gross misconduct of "Habitual doing of acts of absence without leave" vide Cl. No. 5(f) of the Memorandum of Settlement dated 10.4.2002.

II. For your irregular attendance (as referred above), you are charged with the commission of gross misconduct of "Habitual doing of acts of irregular attendance" vide clause No. 5(f) of the Memorandum of Settlement dated 10.4.2002.

The documents in support of the above charges are listed in the Annexure and their copies are enclosed.

You are requested to submit your written statement of defence within 15 days of receipt of this Chargesheet.

Yours faithfully,

Sd/-

(VIJAYS PRABHU)
Asst. General Manager/
Disciplinary Authority"

being not satisfied with the reply of the I Party the Disciplinary Authority appointing Sh. R P Yaji as Enquiry Officer and Sh. K S Surya Prakash as Presenting Officer

ordered him to face the Domestic Enquiry. The Enquiry Officer while securing the presence of the CSE who appeared along with Sh. A Srinivasa Alse, General Secretary, SBSA as Defence Representative after observing the formalities of preliminary hearing receiving the evidence of Sh. H A Kharate as MW 1 for management and exhibiting Attendance register of Laxmeshwar Branch for the period April 2006 to September 2006; staff card of Sh. M B Laxmeshwar for the year 2006; Ltr. No. 136/1215/UAA/2006 dated 25.05.2006 of Laxmeshwar Branch; Ltr. No. 168/1215/UAA/2006 dated 19.06.2006 of Laxmeshwar Branch; Ltr. No. 210/1215/UAA/2006 dated 20.07.2006 of Laxmeshwar Branch; Ltr. No. 333/1215/UAA/2006 dated 06.09.2006 of Laxmeshwar Branch; proceedings No. PRS/BGM/DGM/92/35 dt. 28.12.1992; proceedings No. PRS(W)/ZOM/DGM/98/5 dt. 09.02.1998; proceedings No. PRS(W)/ZOU/DGM/99/83 dt. 27.10.1999; and proceedings No. PRS/ROH/RM/1/2006 dt. 26.06.2006 as MEx 1 to 10 and the statement of the CSE /I Party concluding the enquiry receiving the written briefs of both the sides submitted his enquiry report dated 06.02.2007 all charges are being proved. Then the Disciplinary Authority while affording the opportunity of hearing imposed the punishment of Compulsory Retirement from Service with superannuation benefits and without disqualification for future employment and on appeal the Appellate Authority as well giving an opportunity of hearing confirmed the order of the Disciplinary Authority and dismissed the appeal, then the I Party approached the ALC(C), Bangalore and as he submitted FOC dated 19.11.2007 it resulted in this reference.

5. The I Party in his claim statement without disputing he remaining absent for the relevant period covered in the charge sheet contending that since his son is Polio stricken and ailing to attend him to get medical treatment he was to remain absent and same being minor the punishment of warning being inflicted in 1992, 1998, 1999 and early part of 2006, similar punishment for the alleged absence for the latter part of 2006 also ought to have been inflicted and the punishment of Compulsory Retirement from service imposed is excessive and prayed for direction to reinstate him with full backwages, continuity of service and other consequential benefits. INTER ALIA, the II Party opposed the claim of the I Party contending that since he had made a habit to remain unauthorised absent without applying for leave causing inconvenience in the functioning of the bank transactions and inspite of viewing leniently on several occasions since he did not improve the punishment of compulsory retirement being imposed there is no need to interfere in the same.

6. As usual a Preliminary Issue as to

"Whether the Domestic Enquiry held against the I Party by the II party is fair and proper"

was raised and as the authorised representative of the I Party filed a Memo conceding the fairness of the Domestic

Enquiry with further request to permit him to lead evidence on victimization the said issue came to be answered in the affirmative i.e. Domestic Enquiry being fair and proper on 12.12.2011 and thereafter the Authorised Representative of the I party taking several adjournments to lead evidence on victimization ultimately on 12.06.2012 submitted that he has no evidence on victimization and may be posted for arguments. Accordingly, when the matter was posted for arguments the authorised representative of the I party filed his written arguments practically reiterating the assertions made in the claim statement and II party counsel submitted his oral arguments supporting the punishment imposed.

7. In view of the facts narrated by me above since the I party has not disputed his absence for the period covered in the charge sheet and failed to substantiate having applied any kind of leave either before proceeding on leave or after resuming to duty the said absences have to be treated as unauthorised absences, and as such intermittent absences were frequent and on four occasions though it was viewed leniently by warning since he did not improve in his regularity in attending the duties and again in the latter part of 2006 he remained absent 15 days in the month of May, 29 days in the month of June, full month of July, August and six days in the month of September it do suggest that practically he had no mind to continue in service which also definitely, must have affected the functioning of the Bank Branch where he was serving as such absolutely, I have no reason the II party management treating it as gross misconduct as defined under clause No. 5(f) of Memorandum of Settlement wdated 10.04.2002 of habitually remaining unauthorised absence and imposing the punishment of compulsory retirement. Under the circumstances, I have no reason to interfere in the punishment of compulsory retirement imposed against the I party workman. In the result, I pass the following

ORDER

The reference is rejected holding that the punishment of compulsory retirement from service with all superannuation benefits imposed on Sri M B Laxmeshwar, Clerk of Syndicate Bank is legal and justified and that he is not entitle for any relief.

(Dictated to U D C, transcribed by him, corrected and signed by me on 9th February 2015)

S. N. NAVALGUND, Presiding Officer

नई दिल्ली, 19 मई, 2015

का.आ. 1069.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नैशनल बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण श्रम न्यायालय, बैंगलोर के पंचाट (3/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 14.05.2015 को प्राप्त हुआ था।

[सं एल-12012/88/2009-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th May, 2015

S.O. 1069.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 03/2010) of the Cent. Govt. Indus. Tribunal-cum-Labour Court-Bangalore as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 14/05/2015.

[No. L-12012/88/2009-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, YESWANTHPUR, BANGALORE-560 022.

DATED : 16th APRIL 2015

Present :

Shri S. N. Navalgund, Presiding Officer

C.R. No. 03/2010

I Party

Smt. Selve Purushotham,
W/o Shri Purushotham,
No. 13, 14th B Cross,
Seshadri Rd,
Chinnappa Gdn,
Benson Town,
Bengaluru-560 046

II Party

The Chief Manager
(Disciplinary Authority),
Punjab National Bank,
Circle Office, Raheja
Towers, 26-27,
M G Road,
Bengaluru-560 001

Appearances :

I Party : Sh. Muralidhara,
Advocate

II Party : Sh. T R K Prasad,
Advocate

AWARD

1. The Central Government vide Order No. L-12012/88/2009-IR (B-II) Dated 18.01.2010 in exercise of the powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule:

SCHEDULE

“Whether the action of the management of Punjab National Bank, Bangalore in discharging Smt. Selvi

Purushottam, Ex-clerk cum Cashier *w.e.f.* 09.11.2005 is legal and justified? What relief the concerned workman is entitled to?”

2. On receipt of the reference while registering it in C R 03/2010 when notices were issued to both the parties, they entered their appearance through their respective advocates and I Party filed claim statement on 26.05.2010, whereas, II Party filed its counter statement on 22.11.2010.

3. The brief facts leading to this reference and award may be stated as under.

4. Smt. Selvi Purushottaman (hereinafter referred as I Party) while working as Clerk at Punjab National Bank, Indiranagar Branch (hereinafter referred as II Party) was issued with charge sheet dated 21.07.2004 as under:

“Charge Sheet

While you were working as Clerk-cum-Cashier at BO: Indiranagar, Bangalore, you are alleged to have committed following major misconduct.

1. You unauthorisedly removed the title deeds and other documents, in respect of immovable property located at site No. 11, new Municipal No. 13, 14th B cross, Chinnappa Garden, Seshadri Road, Bangalore 560 046, deposited by you on 17.06.03 with an intention to create equitable mortgage for the housing loan sanctioned by Regional Office on 09.06.03 to the extent of Rs. 4.50 lacs and additional housing loan of Rs. 3.00 lacs on 04.09.03.

a) It is further reported that you have executed a General Power of Attorney on 18.08.03 in favour of one Shri Vanaraj. S/o. Late Shri E. Narasimhulu Naidu residing at No. 220, MM Road, Cox Town Road, Bangalore-560005 appointing him as your true and lawful attorney to enter into any agreement to lease, to sell or otherwise transfer, to convey or otherwise dispose off the property, vesting him with all powers to deal with the above property. You have executed this General Power of Attorney with ulterior motive, when EM on the said property has already been created in the bank's book on 17.06.03 for the housing loan availed by you from the bank.

b) During October 2003, while taking physical stock of all the title deeds at the branch, it was found that title deeds and other documents deposited by you are missing. The bank registered a memorandum of deposit of title deeds with the sub Registrar Office, Gandhinagar on 07.11.03 in respect of said property and also issued paper publication on 13.11.03 in a local daily “Vijay Karnataka” in this regard. You have submitted a letter dated 06.11.03 to the bank, authorizing to debit charges for registration of the memorandum of deposit and paper publication to your account. You have also given an undertaking to accept the certified copies of title deeds in lieu of original on full adjustment of your housing loan account.

c) It is further reported that on 16.12.03, Shri Vanaraj, Power of Attorney holder executed a sale deed in favour of one Smt. Radhamma, residing at No. 220, MM Road, Cox Town Bangalore-5, alienating the said property for a sale consideration of Rs. 4.50 lacs.

Thus, you have defrauded the bank by unauthorizedly removing title deeds and other documents deposited with the bank by you and alienated the property through the GPA holder for sale consideration, when you have already deposited said title deeds and other documents with an intention to create EM for the Housing Loan availed by you and knowing fully well that the bank has registered memorandum of deposit of title deeds with the Sub Registrar's Office, Gandhinagar, Bangalore for the said property after the same has been reported as lost by the branch.

2. You have withdrawn cash through PNB ATM as per details given below, without maintaining adequate credit balance in the deposit accounts or making proper arrangement in your COD account, thus you have misutilised the said facility for your personal gains.

Date of Transaction	Withdrawal No.	Amount	Date when A/c debited
25.10.03	7008, 7009, 7044, 7045	10000	11.11.03
04.11.03	7183, 7184	5000	11.11.03
03.11.03	7136, 7137	5000	11.11.03
06.11.03	7210, 7211	5000	11.11.03
11.11.03	7279, 7280	5000	19.11.03
TOTAL		30000	

3. You have availed suspense advance of Rs. 4500/- on 01.08.03 to attend CBS Training Programme at Mumbai from 10.09.03 to 20.09.03. Further, you did not attend training programme and adjusted the suspense entry on 8.9.03. You have again availed another suspense advance of Rs. 4500/- on 3.10.03 for attending training from 27.10.03 to 7.01.03 at RSC, Belapur, Mumbai. Further you have neither booked tickets nor attended the training programme, thus, you misutilised bank's funds for your personal gains.

4. You have availed non-refundable PF loan of Rs. 1,03,700/- from the bank during February, 2003 for purchase of a site at Plot No. 34, Khatha No. 121/5/49/2 New Manjunatha Layout, Rammurthy Nagar, Bangalore-16: However, you have not deposited title deeds of the said property despite reminder from the Senior Manager, BO: Indiranagar Bangalore, whereas, you have availed a loan from ICICI Bank against the said property without obtaining prior permission from the bank.

5. It is observed from your SF Account No. 107948 and COD No. 11301, maintained at BO: Indiranagar Bangalore for the period 01.01.03 to 22.10.03 that the total debit summations are at Rs. 642248/- and Rs. 333496/- respectively against your take home pay of Rs. 7600/- to Rs. 8500/-, on monthly average and further it is observed that cheques are being issued to various financial institutions towards your financial commitments, which is beyond the known means of your income.

Your above acts tantamount to major misconduct in terms of Para 5(j) of Memorandum of Settlement dated 10.04.02.

You are hereby advised to submit your comments within 7 days on receipt of this letter, failing which, it will be presumed that you have nothing to submit in your defence and appropriate action, as deemed fit will be initiated against you in terms of provisions of Memorandum of Settlement dated 10.04.02 without any further communication to you.

Sd/-
Disciplinary Authority and
Senior Regional Manager”

5. The I Party gave her reply dated 28.07.2004 and being not satisfied with the reply the Disciplinary Authority while appointing Sh. A.K. Munshi as Enquiry Officer and Sh. L V Nayak as Presenting Officer asked the I party to face Domestic Enquiry. The Enquiry Officer while securing the presence of both the parties after observing the formalities of preliminary hearing receiving the evidence of Sh. N Jayaprakash as MW 1 exhibiting Ex-1 to Ex-31 and Ex D-1 to Ex D-22 by consent the detailed description of which are narrated in the Annexure after submission of written brief by both the sides submitted his report dated 09.05.2005 charges as proved. Then the Disciplinary Authority affording opportunity of hearing to CSE imposed punishment of Discharge from Service by order dated 17.12.2005, on appeal by the I Party to the Appellate Authority, the Appellate Authority confirmed the order of the Disciplinary Authority vide order dated 18.04.2006 and then the I Party approached ALC (C), Bangalore in conciliation and as it ended in failure vide his report dated 20.10.2009 it resulted in this reference.

6. Having regard to certain allegations made in the claim statement touching the fairness of the Domestic Enquiry while raising a Preliminary Issue as to

“Whether the Domestic Enquiry held against the I Party by the II Party is fair and proper?”

after receiving the evidence adduced by both the sides the said issue has been answered in the affirmative i.e., the Domestic Enquiry conducted by the II Party is fair and proper by order dated 07.09.2012. Thereafter, when the matter was posted for Evidence of I party on the point of

Victimization and being not gainfully employed counsel for I Party while filing the affidavit of I Party examining her on oath as WW 1 (V) got marked copies of death certificate dated 09.11.2011 in respect of her husband; judgement dated 08.12.2009 in OS No. 8588/2004 passed by XII Addl. City Civil & Session Judge, Bangalore; judgement dated 08.01.2010 in OS No. 7271/2004 passed by XII Addl. City Civil Judge, Bangalore; application filed by I Party seeking information under RTI Act; Original letter dated 27.12.2012 issued by CPIO, PNB and cross-examined by counsel for II Party and as counsel for II Party submitted that he has no evidence to lead on the said point and when the matter was posted for arguments counsel for both sides addressed their oral arguments.

7. Since the Domestic Enquiry conducted by the II Party against the I Party has been held as Fair and Proper by order dated 11.08.2011, the points that now arises for my consideration are:

POINT No. I : Whether the finding of the Enquiry Officer Charge Nos. 1 to 5 are proved is perverse?

POINT No. II : If not, whether the punishment imposed is disproportionate to the misconduct proved against the I Party?

POINT No. III : What Order/Award?

8. On appreciation of the charges with the evidence brought on record in the Domestic Enquiry by the management and I Party and the one brought on record by the I Party while leading evidence on the point of victimization and being not gainfully employed with the arguments put forward by the learned advocates appearing for both the sides, my finding on Point No. I is in the Affirmative, Point Nos. II and III as per final Order for the following

REASONS

9. According to Charge No. 1 the I Party who had availed housing loan to the tune of Rs. 4.50 lacs creating equitable mortgage by way of deposit of title deeds of her immovable property located at Site No. 11, New Municipal No. 13, 14th Cross, Chinnappa Garden, Seshadri Road, Bangalore on 17.6.2003 and later availed additional housing loan on Rs. 3 lacs on 04.09.2003 and during October 2003 while taking physical stock of all the title deeds of the branch as it was found that the title deeds and other documents deposited by her were missing the bank registered a Memorandum of deposit of title deeds with Sub Registrar Office, Gandhinagar on 07.11.2003 in respect of the said property and also issued paper publication in local daily Vijaya Karnataka and that I Party in spite of the same with an intention to dispose off the property executed a General Power of Attorney on 18.08.2003 in favour of Sh. Vanraj, S/o Late E Narasimhulu Naidu appointing him as her true and lawful attorney to enter into any agreement to lease,

to sell or otherwise to transfer to convey or dispose off the property vesting him with all the powers to deal with the above property and manage to execute the sale deed in favour of Smt. Radhamma through Registered Sale Deed dated 16.12.2003. The I Party without disputing availing of the initial loan of Rs. 4.50 lacs and additional loan of Rs. 3 lacs on 04.09.2003 by creating equitable mortgage on her property bearing Site No. 11, New Municipal No. 13, 14th B Cross, Chinnappa Garden, Seshadri Road, Bangalore - 560 046 by way of deposit of title deeds and later when the title deeds were said to have been found missing registering Memorandum of Deposit of title deeds with the Sub-Registrar Office, Gandhinagar on 07.11.2003 as well as Paper Publication on 13.11.2003 being made denied removal of title deeds and other documents by her as well as execution of General Power of Attorney in favour of Sh. Vanraj further contending that she who had borrowed a sum of Rs. 25,000.00 from Sh. Vanraj in the year 1999 was since not able to repay the same he initially had taken her signature on some blank cheques also later obtained her signature on blank paper and by creating a false and fabricated General Power of Attorney in his favour executed the alleged sale deed dated 16.12.2003 in favour of Smt. Radhamma who is other than his own wife and managed to file a suit through her in OS No. 7271/2004 and that he has also managed to receive the title deeds of her property deposited with the bank in connivance with the Branch Manager of the Bank Sh. Jayaprakash who has been examined as MW 1 in the enquiry. The similar defence was put forward by the I Party in the suit filed by Smt. Radhamma in OS No. 7271/2004 on the file of XII Addl. City Civil Judge, Bangalore and the Hon'ble Court appreciating the evidence adduced by both the sides fully agreeing with the defence put forward by I Party dismissed her suit through Judgement dated 08.01.2010 the certified copy of which has been produced at Ex W- 3(v). It is pertinent to note that the I Party bank after coming to know the filing of suit by Smt. Radhamma in OS No. 7271/2004 had filed a Suit against the I Party in OS No. 8588/2004 on the file of XII Addl. City Civil and Sessions Judge, Bangalore for a preliminary decree against the I Party for recovery of the dues against her Home loan and for sale of mortgaged property towards recovery of the same and that suit was also disposed off by the Hon'ble XII Addl. City Civil and Sessions Judge on the same day of disposal of suit in OS No. 7271/2004 filed by Smt. Radhamma and decreed that suit. In view of a peculiar defence put forward by the I Party in respect of the alleged General Power of Attorney dated 18.08.2003 in favour of Sh. Vanraj, in the Domestic Enquiry the management ought to have lead any direct or circumstantial evidence to prove execution of such General Power of Attorney in his favour as well as the allegation of removal of title deeds by the I Party herself towards creating equitable mortgage but no such evidence being on record,

only because Smt. V Radhamma had alleged in her plaint that she was furnished with original title deeds of the property by the I Party the Enquiry Officer ought not to have believed such fact. It is borne out from the Judgement of the XII addl. City civil judge in the suit filed by Smt. V Radhamma against the I Party the Hon'ble Court having regard to the defence put forward by I Party while raising along with other issues two specific issues i.e. issue Nos. 4 and 5 as whether the defendant i.e. I Party proves that she has taken loan of Rs. 25000.00 from the Plaintiff and her husband? Whether defendant proves that she is owner of the scheduled property while accepting the plea put forward by the defendant I Party answered those issues in the Affirmative and ultimately dismissed that suit. When as admitted by MW 1 Sh. Jayaprakash, Branch Manager the documents were kept in Joint Custody and somewhere during September 2003 when physical checking of title deed were done the title deeds of the I Party being missing when admittedly these documents were in the joint safe custody of MW 1 and another officer absolutely there is no direct or circumstantial evidence to believe the allegation against the I Party that the same were removed by her. Therefore, the finding of Enquiry Officer the I Party by removing the title deeds of her property deposited with the bank executed the General Power of Attorney in favour of Sh. Vanraj and managed to sell the property under those title deeds in favour of his wife Smt. Radhamma is baseless and perverse. Hence, according to me the finding of the Enquiry Officer charge no. 1 has been proved is perverse.

10. According to Charge No. 1 the I Party without maintaining adequate credit balance in the deposit accounts or making proper arrangement in COD account drawn a sum of Rs. 10000, 5000, 5000, 5000 and 5000 on 25.01.2003, 04.11.2003, 03.11.2003, 06.11.2003 and 11.11.2003 respectively through its ATM. I fail to understand how this fact even assuming that I Party without balance in her account drawn the alleged amount through ATM how it amounts to misconduct on her part. Though the I Party happens to be the employee of the I Party bank as any other bank customer having a ATM facility swiped her ATM for particular amount and it dispensed that amount how can it be attributed to her that she knowingly that she had no balance in her account having taken that money. If at all there was no balance in the Account of the I Party and even her withdrawal had exceeded for COD limit the ATM ought not to have dispensed the amount. Even assuming that she had no balance in her account and she had also reached the COD limit it is the fault of the ATM machine to dispense the amount asked for by swiping her ATM Debit Card and on coming to know the same fault having occurred the bank is at liberty to recover the amount and in my opinion this fact of overdrawing the amount cannot be attributed with any intention or misconduct on the part of the I Party. Hence only because the I Party admitted these

withdrawals alleged in this charge the charge cannot be held proved for misconduct. Even either in the charge sheet or in the counter statement it is high lighted under what rules of the Bank this alleged act on the part of the I Party amounts to grave misconduct under Para 5(j) of the Memorandum of Settlement. Under the circumstances, the finding of the Enquiry Officer charge No. 2 has been proved is perverse.

11. As per Charge No. 3 I Party had availed suspense advance of Rs. 4,500.00 on 01.08.2003 to attend CBS training programme at Mumbai from 01.09.2003 to 20.09.2003 and did not attend that training programme and adjusted the suspense advance on 08.09.2003 and again availed another suspense advance of Rs. 4500.00 on 03.10.2003 for attending training from 27.10.2003 to 07.11.2003 at RSC, Belapur, Mumbai and did not attend that training as well. Her reply to this charge is that due to her husband's ill health she could not attend the training and had requested the Senior Manager to debit her account and adjust the entry and Mr. H R Prabhu, Cashier was nominated in her place to attend the training and that she was not aware of the fact that suspense entry was outstanding as she was posted at HAL extension counter. However, the suspense entries stand adjusted in normal course. Since this fact is not contraverted by the management by leading any evidence and only because after availing advance she did not attend the training it is not a ground to attribute any misconduct on her part because such amount is recoverable. In this regard as well neither in the charge sheet or counter statement it is highlighted how the act on the I Party violated any conduct rules amounting to major misconduct as per Para 5(j) of memorandum of settlement the finding of the Enquiry Officer this charge is also proved is baseless and perverse. Hence, according to me the finding of the Enquiry Officer charge No. 3 has been proved in perverse.

12. As far as Charge No. 4 I Party had availed non-refundable PF Laon of Rs. 103700 from the bank for purchase of plot at Site No. 34, Khata No. 121/4/49/2 new Manjunath Layout, Rammurthy Nagar, Bangalore-16 and did not deposit the title deeds of the property despite reminder from the Senior Manager and availed a loan from ICICI Bank against the property without obtaining prior permission from the Bank. As far as this charge is concerned the I Party has admitted availment of non-refundable loan from PF department for purchase of site and contended that as the said PF loan was not sufficient to meet the cost of the site she availed laon from ICICI bank for purchase of the site and same was brought to the notice of the Senior Manager and later since she got a different property in the heart of the city and within the eligible amount of the Staff Scheme she requested the authorities to sanction loan to built house and for repairs and renovations, which the authorities were kind enough in sanctioning the loan and that the site

which was purchased out of the PF amount was given as security to ICICI Bank and not for any other speculative purpose. This defence of the I Party also being not rebutted and niether in the charge sheet nor in the counter statement it is highlighted how the act on the I Party violated any conduct rules amounting to major misconduct as per Para 5(j) of memorandum of settlement the finding of the Enquiry Officer this charge is also proved is baseless and perverse.

13. According to Charge No. 5 in her SF account No. 107948 and COD No. 11301 maintained at BO: Indiranagar Bangalore for the period 01.01.2003 to 21.01.2003 it was observed the total debit summation was Rs. 642248.00 and Rs. 333496.00 respectively against her take home of Rs. 7600 to Rs. 8500 and cheques are being issued to various financial institutions to her financial commitments being the beyond known means of income. In respect of this charge I Party claims that as her husband was chronic patient with multi health problems and she was also an acute asthamtic patient certain amounts were availed from outside sources and were repaid through her account without any deliberate intention on her part to misuse the channel. The Enquiry Officer on management producing the statement of her SF Account at Ex E-18 observing that since it indicates that her income for the period for 01.01.2003 to 21.01.2003 is approximately Rs. 80000 whereas the debit summation is Rs. 642248.00 and Rs. 333496.00 cheques were drawn in favour Sriram Chits, Deepak Sahakari Bank, AFSI Pvt. Ltd, Citibank Credit Card, Motilal Sahayani, T E hotel Industrialist Co-Op Bank Ltd., HSBC Credit Card, Vinod Cringe, SBI Credit Card, Standard Chartered Bank Credit Card. etc., it proves that CSE/I Party was in deep financial problems and her financial commitments were beyond known means of income as such held this charge as proved. As far as this charge is also concerned neither in the charge sheet nor in the counter statement it is highlighted how this act on her part amounts to violation of any rules of the Bank and amounts to major misconduct as para 5(j) of MOS. Hence, according to me the finding of the Enquiry Officer charge No. 5 has been proved is perverse.

14. In view of the above discussion I am of the opinion that the finding of the Enquiry Officer charge Nos. 1 to 5 are proved do not sustain. Since on the basis of such finding the Disciplinary Authroity has imposed the punishment of discharge from service and same is upheld by the Appellate Authroity they also do not sustain. Since the evidence of the I Party that she is not gainfully employed after her discharge from service being not rebutted by any direct or circumstantial evidence and she is imposed with such punishment of discharged from service for no fault of her she is entitle for reinstatement with full backwages, continuity of service and other consequential benefits. In the result, I pass the following

ORDER

The action of the management of Punjab National Bank, Bangalore in discharging Smt. Selvi Purushottam, Ex-clerk-cum Cashier w.e.f. 09.11.2005 is not legal and justified and that she is entitle for Reinstatement with full backwages, continuity of Service and other consequential benefits that she would have received in the absence of her discharge from service.

S. N. NAVALGUND, Presiding Officer

Annexure-I**Documents exhibited on behalf of the Management in Domestic Enquiry**

		Ex-14	:	GPA dtd. 18.8.2003 executed by Smt. Selvi Purushotam in favour of Mr. Vanaraj
		Ex-15	:	Plaint copy of OS No. 727/2004 filed by Smt. Radhamma against Smt. Selvi Purushotaman in the Court of City Civil Judge Bangalore
		Ex-16	:	Lease Agreement dtd. 15.04.2004 exected by Smt. Selvi in favour of Mr. A. J. Susairaj and Mr. Celina
		Ex-17	:	Office Order No. 66/2002 dated 04.11.2002
Ex-1	:	Ex-18	:	Criminal compliant filed by Smt. Selvi Purshotaman in PCR No. 301/2004
Ex-2	:	Ex-19	:	Legal notice dated 10.07.2004 issued to Smt. V. Radhamma by Bank's Advocate
Ex-3	:	Ex-20	:	The Deed Register for creating EM to property EM of property dtd. 17.06.2003 and 06.09.2003
Ex-4	:	Ex-21	:	Letter dated 21.10.2003 issued by Senior Manager to CSE
Ex-5	:	Ex-22	:	Leave Record in respect of CSE
Ex-6	:	Ex-23	:	Letter of authority dtd. 06.11.2003 from Smt. Selvi Purushotaman addressed to Senior Manager, BO, Indiranagar to debit charges towards Memorandum of Deposit Title Deed and publication in newspaper
Ex-7	:	Ex-24	:	Memorandum of Deposit of Title Deed dtd. 07.11.2003
Ex-8	:	Ex-25	:	Paper publication dtd. 13.11.2003 in "Vijay Karnataka"
Ex-9	:	Ex-26	:	Letter dated 20.11.2003 issued by Senior Manager to CSE
Ex-10	:	Ex-27	:	Letter dated 07.02.2004 issued by Senior Manager to CSE
Ex-11	:	Ex-28	:	Reply to CSE dated Nil addressed to Senior Manager to his letters dated 21.10.2003, 20.11.2003 and 07.02.2004
Ex-12	:	Ex-29	:	Letter dtd. 10.06.2004 of Smt. V. Radhamma addressed to Asstt. General Manager of the Bank
Ex-13	:	Ex-30	:	Sale Deed dated 16.12.2003 executed by Sri N Vanaraj Power of Attorney holder on behalf of Smt. Selvi Purushotam in favour of Smt. V. Radhamma for sale consideration of Rs. 4,50,000.00
			:	GPA dtd. 18.8.2003 executed by Smt. Selvi Purushotaman in favour of Mr. Vanaraj
			:	Plaint copy of OS No. 727/2004 filed by Smt. Radhamma against Smt. Selvi Purushotaman in the Court of City Civil Judge Bangalore
			:	Lease Agreement dtd. 15.04.2004 exected by Smt. Selvi in favour of Mr. A. J. Susairaj and Mr. Celina
			:	Office Order No. 66/2002 dated 04.11.2002
			:	Statement of SB Account No. 107948 in respect of CSE
			:	OD Account Statement in respect of CSE
			:	Loan application from dated 23.01.2003 in respect of CSE
			:	Encumbrance certificate dtd. 15.09.2004
			:	Sale Deed dated 16.12.2003 executed by Sri N. Vanaraj Power of Attorney holder on behalf of Smt. Selvi Purushotam in favour of Smt. V. Radhamma for sale consideration of Rs. 4,50,000.00
			:	Khata endorsement dtd. 23.12.2003 in the name of Smt. V. Radhamma
			:	Tax paid receipt dtd. 02.04.2004 in the name of Smt. V. Radhamma
			:	Encumbrance certificate dtd. 29.12.2003
			:	State Deed dated 13.06.2003 executed by Smt. Balkhis Begum in favour of Smt. Selvi Purushotaman
			:	Sanction plan dated 18.08.2003
			:	Agreement of sale dtd. 18.08.2003 executed by Smt. Selvi Purushotaman in favour of Smt. V. Radhamma for sale consideration of Rs. 4,50,000.00
			:	GPA dtd. 18.08.2003 executed by Smt. Selvi Purushotaman in favour of Mr. Vanaraj
			:	Copies of notice dtd. 08.06.2004 issued to BESCOM and BWSSB by Smt. V. Radhamma

Ex-31 : Endorsement dtd. 19.06.2004 issued by BESCOM to Smt. V. Radhamma inspector of Police dtd. 17.06.2004 and 22.07.2004

Documents exhibited on behalf of the CSE in Domestic Enquiry

Ex-1 : Xerox copy of ED dtd. 13.08.2004

Ex-2 : Xerox copy of electricity bill dtd. 18.09.2004

Ex-3 : Xerox copy of agreement of sale executed by Smt. Balkhis Begum in favour of Mr. Peter Rosario

Ex-4 : Xerox copy of agreement of sale deed executed on 23.05.2003 by Sri Peter Rosario in favour of Smt. Selvi Purushotaman

Ex-5 : Xerox copy of sale deed dtd. 27.0.1978 executed by Sri M. K. Seshadri in favour of Balkhis Begum

Ex-6 : Xerox copy of sale deed dtd. 26.11.1943 executed by Sri Michael in favour of Smt. Ramakka

Ex-7 : Xerox copy of sale deed dtd. 13.06.1951 executed by Sri Michael in favour of Smt. Ramakka

Ex-8 : Xerox copy of sale deed bearing No. 3014/2003-04 executed by Smt. Balkhis Begum in favour of Smt. Selvi Purushotaman

Ex-9 : Xerox copy of Khata dtd. 26.02.2003 in the name of Smt. Selvi Purushotaman

Ex-10 : Xerox copy of tax receipt dtd. 11.06.2003 in the name of Bhalkis Begum

Ex-11 : Xerox copy of EC dtd. 29.01.2003 EC dtd. 20.10.2003 ED dtd. 19.12.2003 and ED dtd. 13.08.2004

Ex-12 : Xerox copy of approved plan dtd. 18.08.2003 issued by BMP

Ex-13 : Xerox copy of police complaint dtd. 03.06.2004

Ex-14 : Xerox copy of FIR dtd. 03.06.2004 against Sri Vanaraj filed by Smt. Selvi

Ex-15 : Xerox copy of complaint dtd. 03.06.2004 against Sri Vanaraj addressed to Inspector, JC Nagar, Bangalore and acknowledgement of

Ex-16 : Xerox copy of BESCOM electricity meter sanctioned receipt dtd. 18.07.2004 in the name of Smt. Selvi

Ex-17 : Xerox copy of Electricity bill dtd. 18.10.2004 in the name of Smt. Selvi

Ex-18 : Statement of houseing loan a/c of Smt. Selvi

Ex-19 : Acknowledgement from bank dated 21.06.2003 for having deposited original titled deeds dtd. 17.06.2003

Ex-20 : Copy of Khata dtd 27.06.2003

Ex-21 : Acknowledgement dtd. 10.06.2004 addressed to Smt. Selvi by BESCOM

Ex-22 : Copy of water supply bill dtd. 06.01.2005.

नई दिल्ली, 19 मई, 2015

का.आ. 1070.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार विजय बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बैंगलोर के पंचाट (संदर्भ सं. 02/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.05.2015 को प्राप्त हुआ था।

[सं. एल-12012/107/2007-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th May, 2015

S.O. 1070.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 02/2008) of the Cent. Govt. Indus.Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of Vijaya Bank and their workmen, received by the Central Government on 14/05/2015.

[No. L-12012/107/2007-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
YESHWANTHPUR, BANGALORE-560 022**

Dated : 9th April, 2015

PRESENT : Shri S. N. NAVALGUND
Presiding Officer

C R No. 02/2008

I Party

Sri V.C. Augustine,
Door No. 16-63/3,
Jayashree Gate, Kulshekar,
Mangalore-575 005.

II Party

The Deputy General Manager,
Vijaya Bank,
Head Office, M.G. Road,
Bengaluru-560 001.

Appearances :

I Party : Shri K. M. Paul,
Advocate

II Party : Shri B. C. Prabhakar,
Advocate

AWARD

1. The Central Government vide Order No. L-12012/107/2007-IR(B-II) dated 31.01.2008 in exercise of the powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 has made this reference for adjudication with following Schedule:

SCHEDULE

“Whether the punishment of dismissal of Sri V. C. Augustine, clerk by the management of Vijaya Bank is legal and justified? If not, to what relief the workman is entitled to?”

2. On receipt of the reference while registering it in C R 02/2008 when notices were issued to both the sides. I Party entered his appearance through Sh. K. M. Paul, Advocate and filed his claim statement on 28.03.2008 and II Party entered its appearance through Shri. B. C. Prabhakar, advocate and files its counter statement on 25.08.2010.

3. The brief facts leading to this case are as under.

4. Sh. V C Augustine (hereinafter referred as I Party) while serving as Clerk at Vidyanagar branch of Vijaya Bank (hereinafter referred as II Party) was served with charge sheet dated 02.01.2006 as under:

“Charge Sheet

You were working as Clerk at Bank’s Vidyanagar Branch, Hubli from 30.05.2003 till the date of your suspension from the services of the Bank on 20.07.2005.

During you tenure as above, you were entrusted with the duties of Single Window Operator at the branch. While working as Single Window Operator at the branch, you are alleged to have committed serious lapses/irregularities such as misappropriation of customer’s money by using the withdrawal slips by forging the signature of the customers and not entering the withdrawal slip numbers to the computer.

The modus operandi adopted by you in connection with the above mentioned fraudulent transactions at

Vidyanagar Branch, Hubli and the details of other irregularities allegedly committed by you are furnished hereunder:

1. On 17.06.2005, a customer of the branch, Shri K. Prabhakaran, who was maintaining SB A/c No. 23556 and withdrawn an amount of Rs. 15,000/- by using a withdrawal slip bearing No. 281525. Subsequently, you have fraudulently withdrawn an amount of Rs. 20,000/- from the said SB A/c No. 23556 of Shri K Prabhakaran by using another withdrawal slip bearing No. 281537 by forging the signature of the subject customer on the said withdrawal slip. Further, you had wrongly entered the withdrawal slip Number to the computer as ‘281538’ instead of ‘281537’: When the aforesaid fraudulent transaction came to light, you issued an undated cheque bearing No. 0049142 drawn on you SB A/c No. 230036 maintained at Vidyanagar Branch, Hubli drawn in favour of Shri K Prabhakaran and handed it over to Shri K Prabhakaran alongwith the letter dated 11.07.2005. Shri K. Prabhakaran lodged a complaint dated 12.07.2005 with the Branch Manager, Vidyanagar Branch, Hubli regarding unauthorised withdrawal of Rs. 20,000/- by you from his above deposit account had also the fact of issuing a cheque for Rs. 20,000/- by you in his name. Hence, it is evidence that you have misappropriated customer’s money and derived undue pecuniary benefits for yourself.

2. On 20.06.2005, a customer of the branch, Shri Dundappa Irappa Angadi, who was maintaining SB A/c No. 24862 had withdrawn an amount of Rs. 3,000/- by using a withdrawal slip bearing No. 281573. Subsequently, you have fraudulently withdrawn an amount of Rs. 10,000/- from the said SB A/c No. 24862 of Shri Dundappa Irappa Angadi using another withdrawal slip bearing No. 282204 by forging the signature of the customer on the said withdrawal slip. It is evidence from the above that you have misappropriated the customer’s money.

3. On 05.07.2005, while working as Single Window Operator at Vidyanagar Branch, Hubli, you had fraudulently withdrawn an amount of Rs. 15,000/- from SB A/c 23872 of Shri V. G. Kakareddi by using a withdrawal slip bearing No. 283134 and by forging the signature of the customer in the said withdrawal slip. You have also failed to enter the withdrawal slip number to the computer. By such acts you have committed fraud and misappropriated the customer’s money, thereby derived undue pecuniary benefits for yourself.

4. Shri Vijayakumar C. Patil, a customer of the branch is maintaining an SB A/c bearing No. 20715 at Vidyanagar Branch, Hubli. While working as Single Window Operator at the branch, you had fraudulently withdrawn the following amounts from the said SB A/c No. 20715 of Shri V. C. Patil

by using withdrawal slips and forging his signature on the said slips on the below mentioned dated:

Date	Amount Rs.	Withdrawal Slip No.
22.06.2005	10,000/0	282282
02.07.2005	15,000/-	283020

With regard to the misappropriation of the amount of Rs. 15,000/- you have also failed to enter the withdrawal slip number to the computer system. By such acts, you have misappropriated the customer's money and derived undue pecuniary benefits for yourself.

5. On 21.06.2005, while working as Single Window Operator at Vidyanagar Branch, Hubli, you had fraudulently withdrawn an amount of Rs. 20,000/- from the SB A/c No. 22879 of Shri Sangappa M. Naragund by using a withdrawal slip bearing No. 282243 and by forging the signature of the customer in the said slip. Thereby, you have misappropriated the customer's money and derived undue pecuniary benefits for yourself.

6. On 08.06.2005, while working as Single Window Operator at Vidyanagar Branch, Hubli, you have fraudulently withdrawn an amount of Rs. 2,500/- from the SB A/c No. 24417 of Shri Shantaram V. Bhandiwaddar by using a withdrawal slip bearing No. 281480. You have also failed to enter the withdrawal slip number to the computer. Subsequently, on 13.06.2005, you have remitted back Rs. 2,500/- to the SB A/c No. 24417 of the customer without signing as 'remitter' in the Pay-in-slip. It is evidence from such acts that you have temporarily misappropriated the aforesaid amount belonging to the customer.

7. On 09.06.2005, while working as Single Window Operator at Vidyanagar Branch, Hubli you had fraudulently withdrawn an amount of Rs. 2,500/- from the SB A/c No. 24567 of Shri F. Y. Bhajammanavar by using a withdrawal slip bearing No. 281668 and by forging the signature of the customer on the said withdrawal slip. Subsequently, on 15.06.2005, you have remitted back Rs. 2,500/- to the said SB A/c No. 24567 of the customer without signing as 'remitter' in the Pay-in-slip. Thereby, you have temporarily misappropriated the above amount belonging to the customer.

8. On 10.06.2005, while working as Single Window Operator at Vidyanagar Branch, Hubli, you had fraudulently withdrawn an amount of Rs. 3,000/- from the SB A/c No. 24112 of Shri Murigeppa B. Kalaghatgi by using a withdrawal slip bearing No. 281756 and by forging the signature of the customer on the said withdrawal slip. Subsequently, on 14.06.2005, you have remitted back Rs. 3,000/- to the SB A/c No. 24113 of the customer without

signing as 'remitter' in the Pay-in-slip. Thereby, you have temporarily misappropriated the amount belonging to the aforesaid customer.

9. On 15.06.2005, while working as Single Window Operator at Vidyanagar Branch, Hubli, you had fraudulently withdrawn an amount of Rs. 10,000/- from the SB A/c No. 14312 of Shri S. S. Pujar by using a withdrawal slip bearing No. 281949 and by forging the signature of the customer on the said withdrawal slip. Subsequently, on 05.07.2005, you have remitted back Rs. 10,000/- to the SB A/c No. 14312 of the customer without signing as 'remitter' in the Pay-in-slip. Thereby, you have temporarily misappropriated the amount belonging to the aforesaid customer.

10. On 15.06.2005, while working as Single Window Operator at Vidyanagar Branch, Hubli, you had fraudulently withdrawn an amount of Rs. 5,000/- from the SB A/c No. 22220 of Shri Sunil V Dongre by using a withdrawal slip bearing No. 281945 and by forging the signature of the customer on the said withdrawal slip. Thereby, you have misappropriated the customer's amount and derived undue pecuniary benefits for yourself.

11. On 17.06.2005, while working as Single Window Operator at Vidyanagar Branch, Hubli, you had fraudulently withdrawn an amount of Rs. 15,000/- from the SB A/c No. 18520 of Smt. Jayasheel M Kori by using a withdrawal slip bearing No. 281539 and by forging the signature of the customer on the said withdrawal slip. Subsequently, on 21.06.2005, you have remitted back Rs. 15,000/- to the SB A/c No. 18520 of the customer without signing as 'remitter' in the Pay-in-slip. Thereby, you have temporarily misappropriated the amount belonging to the aforesaid customer.

12. On 20.06.2005, while working as Single Window Operator at Vidyanagar Branch, Hubli, you had fraudulently withdrawn an amount of Rs. 20,000/- from the SB A/c No. 23942 of Shri L. K. Kayasakki by using a withdrawal slip bearing No. 282209 and by forging the signature of the customer on the said withdrawal slip. Thereby, you have misappropriated the customer's money and derived undue pecuniary benefits for yourself.

13. On 23.06.2005, while working as Single Window Operator at Vidyanagar Branch, Hubli, you had fraudulently withdrawn an amount of Rs. 10,000/- from the SB A/c No. 23149 of Shri Irappa B Halemani by using a withdrawal slip bearing No. 282283 and by forging the signature of the customer on the said withdrawal slip. Thereby, you have misappropriated the customer's money and derived undue pecuniary benefits for yourself.

14. On 04.07.2005, while working as Single Window Operator at Vidyanagar Branch, Hubli, you had fraudulently withdrawn an amount of Rs. 2,000/- from the SB A/c No. 16501 of Shri K. M. Nargundkar by using a withdrawal slip

bearing No. 283081 and by forging the signature of the customer on the said withdrawal slip. You have also failed to enter the withdrawal slip to the computer. Thereby, you have misappropriated the customer's money and derived undue pecuniary benefits for yourself.

It is evidence from the above that while functioning as Single Window Operator at Vidyanagar Branch, Hubli, you have committed serious misdemeanour by indulging in fraudulent transactions, creation of fictitious entries and falsifying the Bank's records, which are ostensibly in order to misappropriate the customer's money and to derive undue pecuniary benefits for yourself. Due to the aforesaid acts on your part, Branch has lost its image with the valued customers of the Bank and by such acts, you have failed to protect/safeguard the interest of the Bank.

Your above mentioned acts constitute misconduct under the provisions of Memorandum of Settlement of Disciplinary Action Procedure for workmen dated 10.04.2002.

The Bank, therefore charges you as under:

1. Your action of fraudulently withdrawing the amount from the SB A/c No. 23556 of Shri K. Prabhakarn by forging his signature and subsequently wrongly entering withdrawal slip number to the computer as mentioned above constitutes fraudulent acts on your part, which amounts to an act prejudicial to the interest of the Bank and constitutes gross misconduct under sub-clause (j) of Clause 5 of Memorandum of Settlement on Disciplinary Action Procedure for workmen dated 10.04.2002.

2. Your action of fraudulently withdrawing the amount from the SB A/c No. 24862 of Shri Dundappa Irappa Angadi by forging his signature as mentioned above constitutes fraudulent acts on your part, which amounts to an act prejudicial to the interest of the Bank and constitutes gross misconduct under sub-clause (j) of Clause 5 of Memorandum of Settlement on Disciplinary Action Procedure for workmen dated 10.04.2002.

3. Your action of fraudulently withdrawing the amount from the SB A/c No. 23872 of Shri V. G. Kakareddi by forging his signature as mentioned above constitutes fraudulent acts on your part, which amounts to an act prejudicial to the interest of the Bank and constitutes gross misconduct under sub-clause (j) of Clause 5 of Memorandum of Settlement on Disciplinary Action Procedure for workmen dated 10.04.2002.

4. Your action of fraudulently withdrawing the amount from the SB A/c No. 20715 of Shri Vijayakumar C Patil by forging his signature as mentioned above constitutes fraudulent acts on your part, which amounts to an act prejudicial to the interest of the Bank and constitutes gross-misconduct under sub-clause (j) of Clause 5 of Memorandum of Settlement on Disciplinary Action Procedure for workmen dated 10.04.2002.

5. Your action of fraudulently withdrawing the amount from the SB A/c No. 22879 of Shri Sangappa M Naragund by forging his signature as mentioned above constitutes fraudulent acts on your part, which amounts to an act prejudicial to the interest of the Bank and constitutes gross-misconduct under sub-clause (j) of Clause 5 of Memorandum of Settlement on Disciplinary Action Procedure for workmen dated 10.04.2002.

6. Your action of fraudulently withdrawing the amount from the SB A/c No. 24417 of Shri Shantaram V Bhandiwaddar by forging his signature as mentioned above constitutes fraudulent acts on your part, which amounts to an act prejudicial to the interest of the Bank and constitutes gross-misconduct under sub-clause (j) of Clause 5 of Memorandum of Settlement on Disciplinary Action Procedure for workmen dated 10.04.2002.

7. Your action of fraudulently withdrawing the amount from the SB A/c No. 24567 of Shri Bhajammanavar by forging his signature as mentioned above constitutes fraudulent acts on your part, which amounts to an act prejudicial to the interest of the Bank and constitutes gross misconduct under sub-clause (j) of Clause 5 of Memorandum of Settlement on Disciplinary Action Procedure for workmen dated 10.04.2002.

8. Your action of fraudulently withdrawing the amount from the SB A/c No. 24113 of Shri Muriageppa B Kalaghatgi by forging his signature as mentioned above constitutes fraudulent acts on your part, which amounts to an act prejudicial to the interest of the Bank and constitutes gross misconduct under sub-clause (j) of Clause 5 of Memorandum of Settlement on Disciplinary Action Procedure for workmen dated 10.04.2002.

9. Your action of fraudulently withdrawing the amount from the SB A/c No. 14312 of Shri S. S. Pujar by forging his signature as mentioned above constitutes fraudulent acts on your part, which amounts to an act prejudicial to the interest of the Bank and constitutes gross misconduct under sub-clause (j) of Clause 5 of Memorandum of Settlement on Disciplinary Action Procedure for workmen dated 10.04.2002.

10. Your action of fraudulently withdrawing the amount from the SB A/c No. 22220 of Shri Sunil V. Dongre by forging his signature as mentioned above constituted fraudulent acts on your part, which amounts to an act prejudicial to the interest of the Bank and constitutes gross misconduct under sub-clause (j) of Clause 5 of Memorandum of Settlement on Disciplinary Action Procedure for workmen dated 10.04.2002.

11. Your action of fraudulently withdrawing the amount from the SB A/c No. 18520 of Smt. Jayasheel M. Kori by forging his signature as mentioned above constitutes fraudulent acts on your part, which amounts to an act prejudicial to the interest of the Bank and constitutes gross-

misconduct under sub-clause (j) of Clause 5 of Memorandum of Settlement on Disciplinary Action Procedure for workmen dated 10.04.2002.

12. Your action of fraudulently withdrawing the amount from the SB A/c No. 23942 of Shri L. K. Kayasakki by forging his signature as mentioned above constitutes fraudulent acts on your part, which amounts to an act prejudicial to the interest of the Bank and constitutes gross misconduct under sub-clause (j) of Clause 5 of Memorandum of Settlement on Disciplinary Action Procedure for workmen dated 10.04.2002.

13. Your action of fraudulently withdrawing the amount from the SB S/c No. 23149 of Shri Irappa B. Halemani by forging his signature as mentioned above constitutes fraudulent acts on your part, which amounts to an act prejudicial to the interest of the Bank and constitutes gross misconduct under sub-clause (j) of Clause 5 of Memorandum of Settlement on Disciplinary Action Procedure for workmen dated 10.04.2002.

14. Your action of fraudulently withdrawing the amount from the SB A/c No 16501 of Shri K. M. Nargundkar by forging his signature as mentioned above constitutes fraudulent acts on your part, which amounts to an act prejudicial to the interest of the Bank and constitutes gross misconduct under sub-clause (j) of clause 5 of Memorandum of the Settlement on Disciplinary Action Procedure for workmen dated 10.04.2002.

You are, therefore, required to submit within 7 days of receipt of the Charge Sheet your written statement of defence, if any, in triplicate to the undersigned and show cause as to why disciplinary action should not be taken against you, failing which, it will be deemed that you have no statement of defence to submit and the matter will be proceeded with accordingly.

Sd/-
(M. Rathnakar Shetty)
Deputy General Manager
(Disciplinary Authority)''

5. Being not satisfied with the reply of the I Party denying the charges as false and baseless the Disciplinary Authority while appointing Sh. U. M. Shettigar as Enquiry Officer and Sh. Harishchandra Hegde as Presenting Officer ordered him to face the Domestic Enquiry. The Enquiry Officer while securing the presence of the CSE after observing the formalities of preliminary hearing receiving the evidence of Sh. A. Nagabhushan Rao, Senior Manager, Regional Office, Hubli; Sh. S. S. Pujar, SB A/c 14312 holder of Vidyanagar Branch; Sh. Murigeppa B. Kalaghatgi, SB A/c 24113 holder of Vidyanagar Branch; Sh. Dundappa Irappa Angadi, SB A/c No. 24862 holder of Vidyanagar Branch; Sh. S. M. Naragund, SB A/c No. 22879 holder at Vidyanagar

Branch; Sh V.C. Patil, SB A/c No. 20715 holder at Vidyanagar Branch and Sh. Sh. H. Reghuram Shetty, Senior Branch Manager, Vidyanagar branch as MW 1 to 7 and exhibiting Investigation Report alongwith enclosures; Certificate dated 07.04.2006 issued for payment under Payment Pending Investigation Account in respect of various SB Accounts where frauds committed by CSE have been detected to the tune of Rs., 92000.00; Certificate dated 08.04.2006 issued for payment under Payment Pending Investigation Account in respect of various SB Accounts where frauds committed by CSE have been detected to the tune of Rs. 68000.00 copy of stamped receipt dated 30.08.2005 issued by Sh. S. M. Naragund for Rs. 20000.00 towards payment made to him by the branch reimbursing fraudulent withdrawal in his SB A/c 22879; copy of receipt cum undertaking letter dated 21.09.2005 issued by Sh. K. M. Mulagundmath for Rs. 2000.00 towards payment made to him by the branch reimbursing fraudulent withdrawal in his SB A/c 16501 and undertaking no further claims against the Bank; copies of all the statement pertaining to user creation/correction/deletion; cash all the combined debit cash paid scroll for June and July 2005 and cash all combine cash received scroll for June and July 2005 as MEx 1 to 8; the enclosure along with Investigation Report are marked as MEx 1A, 1B1 to 1B68, 1B69(a) to 1B69(ab), 1B70 to 1B74(a) to 1B74(m), 1B75 to 1B77, 1c1 and MEx 1D1 and as the CSE/I Party submitted he has no evidence to lead nor any statement to be given concluding the enquiry receiving the written briefs of both the sides submitted his enquiry report dated 08.06.2006 all charges are being proved. Then the Disciplinary Authority while affording the opportunity of hearing imposed the punishment of Dismissal from Service and on appeal the Appellate Authority as well giving an opportunity of hearing confirmed the order of the Disciplinary Authority and dismissed the appeal, then the I party approached the ALC(C), Hubli and as he submitted FOC dated 07.10.2007 it resulted in this reference.

6. The I party in his claim statement asserted that he submitted an application to retain him in any of Managalore branches as he was suffering from Mental Depression for the past 15 years and his wife was working at Managalore itself, II Party transferred him to Regional Office, Hubli on 23.04.2003 and then posted him at Vidyanagar Branch, Hubli to attend the duties of Cashier and though he submitted his resignation letter dated 28.10.2004 and submitted that he could clear all the liabilities after obtaining loan from Syndicate Bank, Mangalore. He also asserts that though Police Complaint was filed and case was filed till date change sheet has not been filed in the JMFC Court, Hubli and Domestic Enquiry was in violation of the principles of natural justice and that the finding of Enquiry Officer on all the fourteen charges is baseless without examining the handwriting expert and even otherwise the punishment imposed is disproportionate etc. INTER ALIA, the II Party

in the counter statement contending that since the I Party himself preferred to defend himself in the enquiry and all other opportunities were given to defend himself in the enquiry. Enquiry Officer while appreciating the charges with the documentary evidence placed before him coupled with the evidence of the bank officials and SB account holders has rightly come to the conclusion of charges being established and for such misconduct he was not eligible to be continued in the service of the Bank as such the punishment of dismissal is also proportionate supported the Domestic Enquiry as fair and proper, the enquiry finding as based on the evidence of the Bank officials and the documents produced in the enquiry and punishment imposed is proportionate and thus supported all of them.

7. After completion of the pleadings having regard to certain allegation made touching the Domestic Enquiry in the claim statement while framing a Preliminary issue as “whether the Domestic Enquiry held against the I party by the II party is fair and proper?” after receiving the evidence adduced by both the sides hearing the arguments of the learned advocates the said issue has been answered in Affirmative i.e., the Domestic Enquiry held against the I Party by the II party is Fair and Proper by order dated 08.12.2011 receiving the evidence of the I Party on the point of victimization and being not gainfully employed written arguments submitted by the learned advocates appearing for both sides are received, the point that now arises for my consideration are:

POINT No. I : Whether the I Party demonstrates the enquiry finding charges as proved is perverse necessitating the interference of this tribunal?

POINT No. II : If not, whether the punishment of dismissal imposed is disproportionate to the proved misconduct/

POINT No. III : What Order/Award?

8. On appreciation of the charges levelled against the CSE/II Party, oral and documentary evidence placed on record by the management with the arguments put forward by their learned advocates by finding on Point No. I and II are in the negative and Point No. III is as per final order for the following

REASONS

9. On careful scrutiny of the oral and documentary evidence adduced by the management in the Domestic Enquiry with the written submissions given by the Presenting Officer and the CSE/I Party before the Enquiry Officer and the report of the Enquiry Officer, I find that the Enquiry Officer and taking into consideration the totality of the oral and documentary evidence brought on record by the management and the defence put forward by the CSE and the circumstances giving rise to from the said

evidence coupled with the admissions made by the CSE having rightly come to the conclusion charges being proved through his detailed enquiry finding submitted to the Disciplinary Authority dated 08.06.2006. When this is the fact it was for the learned advocate appearing for the I Party to highlight how the finding of the Enquiry Officer may be termed as baseless or perverse but no such attempt is made in the written arguments submitted by him. Out of the fourteen customers from whose SB Accounts allegedly on forged withdrawal slips amounts were drawn by the CSE while he was on duty as Single Window Operator at Vidyanagar branch of the II Party the management examined five of them and could not examine the remaining five because they did not co-operate being made good of their lost amounts. The CSE has not at all challenged the evidence of those five account holders examined as MWs 2 to 6 whose evidence point to him having made false withdrawals from their respective accounts. Under the circumstances, I have no reason to come to any other opinion on the finding of the Enquiry Officer charges being proved.

10. Now coming to the punishment of Dismissal imposed both the Disciplinary Authority and the Appellate Authority after detailed discussion having come to the conclusion that he is not fit to continue in service, I too having regard to the grave misconduct committed by the I Party withdrawing amount from the SB accounts of the customers through forged signatures in the withdrawal slips when he was on duty as Single Window Operator he deserves no lesser punishment than the dismissal. Therefore, I also do not find any reason to say the punishment of Dismissal imposed being Disproportionate necessitating my interference. Under the circumstances, in my opinion the punishment of Dismissal imposed by the management on Sh. V.C. Augustine is legal and justified. Hence, I pass the following

ORDER

The Punishment of Dismissal imposed on Sri V.C. Augustine, Clerk by the management of Vijaya Bank is legal and justified and that he is not entitled for any relief.

S.N. NAVALGUND, Presiding Officer

नई दिल्ली, 19 मई, 2015

का.आ. 1071.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ सं. 31/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/05/2015 को प्राप्त हुआ था।

[सं० एल-12012/4/2004-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th May, 2015

S.O. 1071.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court - Bangalore as shown in the Annexure, in the Industrial dispute between the management of Canara Bank and their workmen, received by the Central Government on 14/05/2015.

[No. L-12012/4/2004-IR (B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

Yeswanthpur, Bangalore-560 022.

DATED : 13th NOVEMBER 2014

Present :

Shri S. N. Navalgund, Presiding Officer

C.R. No. 31/2004

I Party	II Party
Sh. H.B. Prakashkumar,	The General Manager,
Sh. Byraveswara Krupa,	Canara bank, Personnel Wing,
Behind Police Quarters,	Head Office,
Malavalli,	No. 112, J.C. Road,
MANDYADIST. - 571 430.	BANGALORE - 560 009.

Appearances :

I Party	: Shri V.S. Naik Advocate
II Party	: Shri T.R.K. Prasad Advocate

AWARD

1. The Central Government *vide* order No. L-12012/4/2004-IR (B-II) dated 01.06.2004 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made this reference for adjudication with the following schedule:

SCHEDULE

“Whether the management of Canara Bank is justified in dismissing Sh. H.B. Prakashkumar, Clerk from service *w.e.f.* 28/8/2002? If not, what relief the workman is entitled to and from which date?”

2. On receipt of the reference and registering it in C.R. 31/2004 when notices were issued to both the sides, they entered their appearance through their respective advocates and I Party filed his claim statement on 06.08.2004 and II party filed its counter statement on 10.06.2005.

3. The brief facts leading to this reference and award may be stated as under.

4. While the I Party was serving as Clerk in Talagavady Branch of the II Party having noticed certain misconduct getting an investigation report dated 15.03.2001 from Sh. H.D. Venkatesh and Sh. A.S.P. Sastry, Officers of II Party calling upon him to give explanation and being not satisfied with his explanation served on him the charge sheet dated 10.07.2001 and later the same came to be amended on 03.09.2001 when the enquiry was pending as under:

“CHARGE I

You were enjoying OD limit of Rs. 40500/- on the security of Five LIC policies having total surrender value of Rs. 42594. You OD limited was sanctioned by Regional Office, Mysore and was tenable till 06-08-2000.

You have submitted NF 425 dtd 21-08-2000 requesting for maximum limit under OD on the security of same 5 LIC policies pledged to the Bank and you have furnished the surrender value of five policies as below:—

a)	721568263	Rs. 8484-70
b)	610257650	Rs. 13953-60
c)	721577194	Rs. 24409-50
d)	721587087	Rs. 3964-10
e)	610266380	Rs. 16428-50
Total SV		Rs. 67240-40

Talagavady Branch recommended for OD limit of Rs. 63000/- after keeping a margin of 5% of Surrender value of Rs. 67420-40 duly mentioning in the application as “copy of surrender value certified from LIC enclosed”. The recommendations columns were also filled up by you. Photo copies of surrender value certificate were not attested by Manager of Talagavady branch as you have failed to produce original certificate & undertook to produce the same to RO Mysore/to the branch at the time of availing renewed/enhanced limit.

After affixing your signature in the Tappal register you have personally carried the credit report to RO: Mysore & handed over the same to Sri K.J. Naik, Officer/Sri S.S. Vadueva, Officer, who were handling Advances Department. Upon your showing the original surrender value certificate Sri S.G. Vadueva, Officer, enquired about the alterations in the surrender value certificate to which you have replied that he would get the same authenticated by LIC, Maddur. However, you have failed to produce the original surrender value certificate.

Upon insisting for the original surrender value certificate by RO: Mysore you have submitted two letters dtd. 09.09.2000 (where date is wrongly mentioned as 09.08.2000)

and 14.10.2000 stating that you do not required enhancement and want only renewal of the existing OD limit only. In terms of your request in NF425 dtd. 14.10.2000 branch recommended afresh for renewing the existing limit and the same was renewed.

However, the surrender value obtained by the branch from LIC, Maddur on 30.08.2000 in respect of LIC policies pledged by you reveals the following:—

	Policy No.	Actual Surrender Value in Rs.	Surrender Value altered by you
a)	721568263	5484-70	Rs. 8484-70
b)	610257650	10953-60	Rs. 13953-60
c)	721577194	14409-50	Rs. 24409-50
d)	721587087	3964-10	Rs. 3964-10
e)	610266380	12428-50	Rs. 16428-50
	Total SV	47240-40	Rs. 67240-40

It is clear from the above that you had deliberately withheld the original LIC surrender Value Certificate while seeking renewal of your OD limit with enhancement and produced Photocopies of Surrender Value Certificate after fraudulently altering the values with a view to mislead recommending/sanctioning authority to obtain/avail enhancement in the OD limit against 5 LIC policies already pledged by you.

Our Staff Section (W), Circle Office, Bangalore, had called for an explanation from you *vide* their letter BLSW:40357:EP:MISC:2001 dated 13-02-2001. Reply dtd. 24.02.2001 submitted by you is found to be not satisfactory.

CHARGE-II

While working at Hittanahalli Branch, you have claimed reimbursement of Rs. 900/- *vide* your declaration dtd. 31.07.1996 under Bank's Staff Welfare Measures in respect of your two daughters, *Viz.*, Kum. H.P. Prakruthi, studying in 5th Std., and Kum. H.P. Roopashree, Studying in LKG. You have enclosed Photocopies of "Fee Card" issued to "Anitha Primary & High School, St. Anns Convent, Malvalli" issued for 1996-97. On a close scrutiny of the same following discrepancies are observed.

In both the fee cards, number is mentioned as 48. The Card pertaining to Kum H.P. Prakruthi has been used in taking in photo copy fraudulently by affixing while paper on the name of Kum. H.P. Roopashree written to claim the amount in respect of Kum. H.P. Roopashree.

On 30-06-1997 you have been a declaration under Staff Welfare Measures Scheme claiming Rs. 900/- in respect of your two daughter, i) Kum. H.P. Prakruthi studying in 6th Std. ii) Kum. H.P. Roopashree studying in LKG enclosing the fee card issued by Anitha Primary & High School/St.

Annas Convent of Malavalli as proof.

Kum. H.P. Roopashree, was admitted to Anitha Higher Primary School, Malavally in the year 1997-98 to LKG on 05.06.1997 and she was not studying in their school during 1996-97.

Thus you have indulged in giving a false declaration duly supported by a fabricated document with regard to Kum. H.P. Roopashree to gain undue pecuniary benefit from the Bank while claiming educational expenses on 31.07.1996.

Our Staff Section (W), Circle Office, Bangalore, had called for an explanation from you *vide* their letter BLSW:40527:EP:Fraud:2001 dated 30.03.2001. Reply dtd. 11.04.2001 submitted by you is found to be not satisfactory.

CHARGE-III

Sri Channe Gowda, Village Accountant, staying in NFS extension, Malavally, has informed that he has opened LLD Account at our Talagavady branch during 1990 with a monthly instalment of Rs. 250/- each. He had opened the LLD account through you and monthly instalments were also paid through you only. Sri Channe Gowda has informed that you have obtained his signatures subsequently on some forms stating that the same are required for getting accounts transferred to Hittanahally Branch. When the maturity of LLD amount was nearing Sri Channe Gowda requested you to deposit the entire maturity proceeds in KDR for 66 months in his name. You have given him KDR No. 19/96 for Rs. 20000/- with maturity value of Rs. 40042/- maturing on 20.07.2001.

Upon verification of records at our Talagavady Branch, it is revealed that Sri Channe Gowda had opened LLD No. 33 on 20.10.1990 with monthly instalment of Rs. 250/-. The same was closed on 30.11.1990 and fresh LLD No. 43 was opened on 30.11.1990 with monthly instalment of Rs. 250/-. The LLD No. 43 was also closed before maturity on 07.08.1993 and Rs. 7304/- is paid in cash. One more LLD No. 92/93 was opened on 07.08.1993 in the name of Sri Channe Gowda with monthly instalment of Rs. 750/-. The same was closed before maturity on 31.08.1994 and proceeds on Rs. 3789/- was paid in cash. All these accounts are introduced by you. The request letter dated 29.08.1984 for closure before maturity are in your handwriting. But Sri Channe Gowda maintains that he had opened only one LLD account with monthly instalments of Rs. 250/- and monthly instalments were paid regularly.

Application for KDR 19/96 dtd. 20.01.1996 is in your handwriting and account is also introduced by you. In the application the portion showing the amount in figures in torn (holed), so that exact amount cannot be made out. However, in the words it is written as 'Two Thousand only'.

You have drawn cash of Rs. 10000/- from your SB Account No. 4017 and on the reverse of the cash slip there

is a quotation KDR for Rs. 2000/- and net amount paid is only Rs. 8000/- as per the cash denomination noted. The paying in slip for depositing the cash towards KDR 19/96 does not bear signature but a mention is made of SB Account No. 4017. KDR 19/96 is written by you and delivery of deposit receipt is also taken by you.

In the Kamadhenu Deposit Receipt 19/96 intentionally some space was left while writing the deposit amount in words in between 'two' and 'thousand' so as to facilitate subsequent alternation of 'two' into 'twenty' thousands ('0' has been altered to 'e' and 'nty' has been inserted). In figure column the amount of deposit, total interest and maturity value were altered by adding '0' (Zero) after '2' (in deposit and interest column) and '4' in maturity value.

From the above it is clear that you have indulged in fraudulent activities for gaining undue monetary benefits by defrauding the Bank and its customer.

Our Staff Section (W), Circle Office, Bangalore, had called for an explanation from you vide their letter BLSW:EP:Fraud: 2001 dated 30.03.2001. Reply dtd. 11.04.2001 submitted by you is found to be not satisfactory.

CHARGE-IV

Sri Channe Gowda, had deposited Rs. 20000/- on 19.09.1997 through you in KDR 321/97 for 39 months in his daughter's name Kum. C.M. Hamsavathy maturing on 19.12.2000. As per Branch records you have taken delivery of the said KDR on behalf of the party and handed over the same to Sri Channe Gowda. During Jan 2001, you had been to the house of Sri Channe Gowda and gave him Rs. 29900/- in cash stating that the same in the maturity proceeds of the deposit. You have taken the original deposit receipt KDR 321/97 duly signed by Kum. C.M. Hamsavathy. When Channe Gowda asked you how it was possible for you to bring the deposit proceeds in cash while you were working in Talagavady branch and whereas the deposit was in Hittanahally, you have given him a vague reply.

Upon verification of Hittanahally Branch records it is revealed that the deposit was only for Rs. 2000/- and not Rs. 20000/-. The deposit has already matured and not yet encashed but kept in overdue deposit ledger KDR 321/97 was introduced by you and pay in slip of the deposit bears your signature only. As per the record of deposit receipt issued, you have taken delivery of KDR 321/97. Even though KDR 321/97 has matured for payment on 19.02.2000 the amount is not claimed from the branch and is transferred to overdue deposit register.

From the above, it is clear that you have indulged in malpractice for monetary gain by defrauding the Bank and its customer.

Our Staff Section (W), Circle Office, Bangalore, had called for an explanation from you vide their letter BLSW:

40527:EP:Fraud:2001 dated 30.03.2001. Reply dtd. 11.04.2001 submitted by you is found to be not satisfactory.

By your above actions you have failed to take all possible steps to ensure and protect the interest of the Bank and discharge your duties with utmost integrity, honesty devotion and diligence and thus committed a misconduct within the meaning of Chapter XI Regulation 2(A)(i) of Canara Bank Service Code."

and by appointing Sh. R. Parthasarathy as Enquiry Officer and Sh. P. Shivaramu as Presenting Officer directed him to face the Domestic Enquiry. The Enquiry Officer Securing the presence of the CSE/I Party observing the formalities of preliminary hearing while recording the evidence of 14 management witnesses and exhibiting 75 documents as MEx-1 to MEx-75 and the one document produced by the CSE/I Party as DEx-1 the detailed description of which are narrated in the annexure after receiving the written briefs he submitted his enquiry finding to the Disciplinary Authority dated 25.04.2002 as the charge being proved. Then the Disciplinary Authority while affording an opportunity of hearing imposed the punishment of Dismissal from service and even the Appellate Authority after affording opportunity affirmed the same the I Party filed conciliation petition before the ALC(C), Bangalore and as it ended in his submission of failure report the ministry made this reference for adjudication.

5. The I Party in his claim statement while contending that the enquiry conducted as a farce and he was not given fair and proper opportunities and that the enquiry finding is perverse and the punishment imposed is also disproportionate to the misconduct alleged against him and INTER ALIA the II Party contended in the Domestic Enquiry all fair and proper opportunities were given to the I Party and that the finding of the Enquiry Officer being based on the material placed before him cannot be termed as perverse and the misconduct proved being unbecoming of an official working in the Bank the punishment imposed is just and proper and my learned predecessor while framing a Preliminary issue as to

"Whether the Domestic Enquiry held against the I Party by the II Party is fair and proper?"

After receiving the evidence adduced by both the sides and hearing the learned advocate by his order dated 20.11.2006 answered the said issue in the affirmative holding that the Domestic Enquiry conducted is fair and proper, the learned advocate appearing for the I Party while filing the affidavit of I Party being not gainfully employed after his dismissal from service examined him on oath as WW 1 and as counsel for II Party did not lead any rebuttal evidence the I Party being gainfully employed the arguments addressed by the learned advocates by both sides were

heard. Since the Domestic Enquiry is held fair and proper the points that now arises for my consideration are:

Point No. 1: Whether I Party demonstrates the finding of the Enquiry Officer charges being proved is perverse necessitating the interference of this tribunal?

Point No. 2: If not, whether the punishment of dismissal imposed is disproportionate?

Point No. 3: What Order/Award?

6. On appreciation of the pleadings, evidence brought on record in the Domestic Enquiry with the arguments put forward by the learned advocates appearing for the parties my finding on Point Nos. 1 and 2 are in the Negative and Point No. 3 is as per the final decision.

7. The I Party has not disputed the charge and evidence adduced by the management that he has enjoying the OD limit of Rs. 40500.00 on the security of his five LIC Policies bearing No. 721568263, 610257650, 721577194, 721587087, 610266380 surrender value of which were Rs. 8484.00 Rs. 13953.00, Rs. 24409.50, Rs. 3964.10, 16428.50 respectively till 06.08.2000 and later submitting letter dated 21.08.2000 requesting for maximum limit of OD on the security on the same five LIC Policies actual surrender value of which were Rs. 5484.70, Rs. 10953.60, Rs. 14409.50, Rs. 3964.10, 12428.50 respectively making them to read as Rs. 8484.00, Rs. 13953.00, Rs. 24409.50, Rs. 3964.10, 16428.50 enclosing the photocopies of the policies and managed to get the recommendation for OD Limit of Rs. 63000.00 keeping a margin of 5% and also having personally carried the credit report to Regional Office, Mysore and handing over the same to Sh. K.J. Naik, Officer and Sh. S.B. Vasudev, Officer who were handing advances department and Sh. S.B. Vasudev, Officer on showing the alterations in the Surrender Value Certificate saying that he would get the same authenticated by LIC, maddur failed to produce the Original Surrender Value Certificates and on the other hand filed an application to continue the old OD Limit as per his letters dated 09.09.2000 and 14.10.2000 the charge that he tried to get the OD Limit enhanced tampering the Surrender Value Certificates do not require any other evidence to prove the Charge No. 1. Therefore, absolutely I find no reason to say the finding of the Enquiry Officer on Charge No. 1 as proved being baseless or perverse.

8. Similarly the I Party having not disputed that he claimed reimbursement of Rs. 900.00 through his declaration dated 31.07.1996 under Banks Staff Welfare Measures in respect of his two daughters namely Kum. H.P. Prakruthi showing that she is studying in 5th Std. and Kum. H.P. Roopashree showing that she is studying in LKG affixing the photocopies of fee card issued by Anitha Primary and High School, St. Ann's Convent, Malavalli issued for 1996-1997 and he also does not dispute as reported by the School Officials that his second daughter Ku. H.P. Roopashree was admitted to Anitha Higher Primary School, Malavalli

in the year 1997-98 to LKG on 05.06.1997 and she was not studying in the said school during 1996-1997. Therefore, it is crystal clear that he taken the photocopy of the fee receipt in respect of his first daughter Kum. H.P. Prakruthi and manipulated the name of Kum. H.P. Roopashree and in place of the standard showing it as LKG which is also supported by the documentary produced at MEx-31. Thereby the second charge that he have a false declaration supported by a fabricated document to claim reimbursement of education expenses for his second daughter Kum. H.P. Roopashree for the year 1996-1997 who was not at all admitted to the school during that year and was admitted in the next academic year i.e., 1997-1998 to gain undue pecuniary benefit from his employer. Thus, I find no reason to say the finding on the Enquiry Officer the Charge No. 2 as well either baseless or perverse.

9. As far as the Charge Nos. 3 and 4 are concerned the evidence of customer Sh. Channe Gowda, Village Accountant MW 2 Smt. B.K. Ganga Devi, the Cashier at the relevant time which disclose through the I Party the customer Sh. Channe Gowda having opened an LLD Account at Talagavady Branch during 1990 with a monthly instalment of Rs. 250.00 and made payments of some instalments through the I Party itself and I Party having made payment of the maturity value to the customer on 20.07.2001 whereas it discloses the I Party having closed that account on 30.11.1990 and opening a fresh account on the same day and receiving the then value of Rs. 7304.00 which indicates that he closed the account well before the maturity and taken the then balance and utilised it for himself and by opening fresh account crediting the instalments received from the customer at the end making him the payment of the maturity value. Though this act on the part of the I Party has not caused financial loss either to the Bank or to the customer his action misutilising the amount of the customer is unbecoming of an employee of the Bank. Therefore on this aspect of the charges as well the finding of the Enquiry Officer cannot be termed as baseless or perverse.

10. Under the circumstances having found the finding of the Enquiry Officer is based on the available evidence and admissions of the I Party, I find no reason to say any of the finding of the Enquiry Officer being baseless or perverse necessitating my interference.

11. Though by the alleged actions of the I Party no financial loss either to the Bank or to the customers of the Bank as far as charge Nos. 1, 3 and 4 are concerned and as far as false claim of education expenses of his second daughter could be recovered from the I Party by the II Party his attempt to get higher OD Limit by manipulating the Surrender Value of his LIC Policies being a grave misconduct the decision of the Disciplinary Authority that he is unfit to continue in the Bank Service being just and proper, I also find no reason to say that the punishment

imposed being disproportionate to the misconduct proved against the I Party. in the result, I pass the following

ORDER

The Action of the management of Canara Bank is justified in dismissing Sh. H.B. Prakashkumar, Clerk from service w.e.f. 28.08.2002 is legal and justified and he is not entitle for any relief.

S. N. NAVALGUND, Presiding Officer

ANNEXURE-I

Witnesses examined on behalf of Management in Domestic Enquiry:

MW 1-Sh. Chenaigowda, Customer of II Party

MW 2-Smt. B.K. Gangadevi, Clerk

MW 3-Sh. P. Krishnappa, Retd. Clerk

MW 4-Sh. A.S.P. Shastry, Officer

MW 5-Sh. G.S. Ravi Sudhakar, Officer

MW 6-Sh. H.D. Venkatesh, Retd. Officer

MW 7-Sh. K. Jagannath Nayak, Officer

MW 8-Sh. S.G. Vasudueva, Officer

MW 9-Sh. M.R.Dhruva, Manager

MW 10-Sh. A.R.S. Bhatta, Manager (Ex)

MW 11-Sh. S. Manjunath, Manager

MW 12-Sh. Shamsuddin, Manager

MW 13-Sh. N. Nanjunda, Clerk

MW 14-Sh. M. Mahadev, Manager

Witnesses examined on behalf of CSE/I Party in Domestic Enquiry:

Nil

Documents exhibited in the Domestic Enquiry:

Ex M-1 : Investigation Report dt. 02.02.2001 of Sh. H.D. Venkatesh

Ex M-2 : Statement of Shri H.B. Prakash Kumar, Clerk, Talagawadi Branch

Ex M-3 : Statement of Shri S. Manjunath, Manager, Talagawadi Branch

Ex M-4 : Statement of Shri K. Jagannath Naik, Officer, RO, Mysore

Ex M-5 : Statement of Shri S G Vasudeva, Officer, RO, Mysore

Ex M-6 : NF 425 dt. 21.08.2000 of Shri H B Prakash Kumar

Ex M-7 : Surrender Value Certificate of LIC of India dt. 10.08.2000 in respect of LIC Policy No. 721568263

Ex M-8 : Surrender Value Certificate of LIC of India dt. 08.08.2000 in respect of LIC Policy No. 610257650, 721577194, 721587087 and 610266380

Ex M-9 : Letter dt. 09.08.2000 of Shri H B Prakash Kumar

Ex M-10 : Letter dt. 14.10.2000 of Shri H B Prakash Kumar

Ex M-11 : NF 425 dt. 14.10.2000 of Shri H B Prakash Kumar

Ex M-12 : Surrender Value Certificate of LIC of India dt. 30.08.2000 in respect of LIC Policy No. 610257650, 721577194, 721587087 and 610266380

Ex M-13 : Surrender Value Certificate of LIC of India dt. 30.08.2000 in respect of LIC Policy No. 721568263

Ex M-14 : Certified copy of Surrender Value Certificate dt 08.08.2000 of LIC of India

Ex M-15 : Certified copy of Letter dt 03.08.2000 of Shri H B Prakash Kumar addressed to LIC of India, Maddur

Ex M-16 : Letter No. PS/61N dt. 30.01.2001 of LIC of India, Maddur

Ex M-17 : Tappal/Courier Book & Ledger with printed Sl. No. 34 of Canara Bank, Talagawadi Branch

Ex M-18 : Letter No. CR 22/2000 dt. 17.10.2000 of Canara Bank, Talagawadi Branch addressed to RO Mysore

Ex M-19 : Letter No. BLSW:40357:EP:MISC:2001 dt. 13.2.2001 of SS (W), CO Bangalore addressed to Shri B. Prakash Kumar

Ex M-20 : Letter No. 8:HO:staff:33/2001 dt. 24.02.2001 of Talagawadi Branch, Addressed to SS(W), CO Bangalore

Ex M-21 : Letter dt. 24.02.2001 of Shri H B Prakash Kumar, addressed to SS(W), Co Bangalore

Ex M-22 : Master Sheet and Ledger Sheet in respect of OD A/c of Shri H B Prakash Kumar for the period August 2000 to October 2000

Ex M-23 : Saction letter of RO Maysore for OD Limited of Rs. 40500/- tenable till

		06/08.2000 sanctioned to Shri H B Prakash Kumar	Ex M-40	:	Investigation Report dt. 15.03.2001 of Sh. H D Venkatesh and Sri A S P Shastry
Ex M-24	:	Letter No. Cr 15735/7186/SGV dt. 24.08.2000 of RO Mysore	Ex M-41	:	Statement of Sri Shamuddin, Manager, Canara Bank, Hittanahalli Branch
Ex M-25	:	Letter No. ADV:RR:8394:KNS dt. 19.09.2000 of RO Mysore	Ex M-42	:	Statement of Sri N Nanjunda, Clerk, Canara Bank, Hittanahalli Branch
Ex M-26	:	Letter No. 15375/CR/8475SGV dt. 21.09.2000 of RO Mysore	Ex M-43	:	Statement of Sri P Krishnappa, Clerk, Canara Bank, Hittanahalli Branch
Ex M-27	:	Letter No. 15735/8857/SGV dt. 05.10.2000 of RO Mysore	Ex M-44	:	Statement dt. 20.02.2001 of Sri Channegowda, Customer
Ex M-28	:	Investigation Report submitted by Shri H D Venkatesh and A S P Shstry, Officers of RO Mysore	Ex M-45	:	Paying in slip dt. 07.07.1993 in respect of LLD 33 of Sri Channegowda - Cash Received seal of 07.08.1993
Ex M-29	:	Letter dt. 23.02.2001 of Anitha Higher Primary School addressed to Canara Bank, Talagawadi Branch	Ex M-46	:	Ledger sheet pertaining to LLd No. 33
Ex M-30	:	Declaration dt. 31.07.1996 of Shri H B Prakash Kumar addressed to Canara Bank, Hittanahalli Branch	Ex M-47	:	Discharge for closure of LLd No. 33
Ex M-31	:	Free Card for 1996-97 submitted by Shri H B Prakash Kumar	Ex M-48	:	Relative slips for closure of LLD No. 33 dt. 30.11.1990
Ex M-32	:	Relative slips for Sanctioning of Staff Welfare Expenses to Shri H B Prakash Kumar for the year 1996-97	Ex M-49	:	Discharge for LLD No. 43 dt. 30.11.1990
Ex M-33	:	Declaration dt. 30.06.1997 of Shri H B. Prakash Kumar, addressed to Canara Bak, Hittanahalli branch	Ex M-50	:	Ledger Sheet pertaining to LLD No. 43
Ex M-34	:	Free Card for 1997-98, submitted by Shri H B. Prakash Kumar	Ex M-51	:	Application for closure of LLd No. 43 dt. 07.08.1993
Ex M-35	:	Relative Slips for sanctioning of Staff Welfare Expenses to Sr H B. Prakash Kumar for 1997-98	Ex M-52	:	Relative slips for closure of LLd No. 43
Ex M-36	:	Letter No. BLSW:40527:EP: FRAUD:2001 dt. 30.03.2001 of SS (W), CO Bangalore, addressed to Shri H B. Prakash Kumar	Ex M-53	:	Application for LLD no. 92/93 dt. 07.08.1993
Ex M-37	:	Letter No. 8:HO: Staff 79: 2001 dt. 04/.04.2001 of Canara Bank, Talagawadi Branch, addressed to SS(W), CO Bangalore	Ex M-54	:	Ledger Sheet pertaining to LLD No. 92/93
Ex M-38	:	Letter dt. 11.04.2001 of Shri H B. Prakash Kumar addressed to DGM, SS (W), CO Bangalore	Ex M-55	:	Application for closure of LLD dt. 28.04.1994 of Sri Channegowda
Ex M-39	:	Letter No.8:HO: Staff: 083:2001 dt. 12.04.2001 of Canara Bank, Talagawadi Branch addressed to SS (W), CO Bangalore	Ex M-56	:	Relative sloips for closure of LLd 92/ 93 dt 17.05.1994
			Ex M-57	:	Application for LLD No. 95 dt. 25.03.1994
			Ex M-58	:	Ledger Sheet pertaining to LLD No. 95
			Ex M-59	:	Application for closure of LLD No. 95 dt 29.08.1994
			Ex M-60	:	Relative sloips for closure of LLD 95 dt. 31.08.1994
			Ex M-61	:	Xerox copy of KDR No. 19/96
			Ex M-62	:	FD/KD Paying in slip dt. 20.01.1996 for Rs. 2000/- in respect of Sri Channegowda

Ex M-63	:	Ledger Sheet in respect of KDR 19/96 of Sri Channegowda		22.12.95 with printed serial number 501415	
Ex M-64	:	F 108 dt. 20.01.1996 in respect of KDR 19/96 of Sri Channegowda	Ex M-71	:	Paying in challan in respect of KDR 321/97 dt 19.09.1997
Ex M-65	:	SB Withdrawal Order form for Rs. 10000/- dt. 20.01.1996 in respect of SB a/c 4017 of Shri H B Prakash Kumar	Ex M-72	:	Application for KDR (NF 108) dt. 19.09.1997 in respect of KDR 321/97
Ex M-66	:	Record of Deposit Receipts issued of Canara Bank, Hittanahalli Branch for delivering Deposit Receipts — entry pertaining to KDR 19/96	Ex M-73	:	Ledger Sheet in respect of KDR 321/97
Ex M-67	:	Cash shroff book dt. 20.01.1996 of Hittanahally Branch	Ex M-74	:	Record of deposit receipts issued of Hittanahalli Branch - entry pertaining to KDR 321/97
Ex M-68	:	KDR Subsidiary Sheet of Hittanahalli Branch for 20.01.1996	Ex M-75	:	Paying in slip in respect of LLD 95 of Sri Channegowda dated 25.03.1994
Ex M-69	:	Cash shroff book dt. 20.12.1995 of Hittanahalli branch	Documents exhibited on behalf of the I party:		
Ex M-70	:	KDR subsidiary sheet of Hittanahally branch for the period 18.12.95 to	Ex D-1	:	Attendance Register (folio No. 109) pertaining to Aug. 94 of Mandya Branch relating to Shri H B Prakash Kumar.